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New York, 12-30 July 1993

ELEMENTS OF AN INTERNATIONAL AGREEMENT ON THE CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS ON THE HIGH SEAS

(Working paper submitted by the delegations of Chile, Colombia, Ecuador and Peru)

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BACKGROUND

This document is intended to be a contribution to the consideration of all the issues raised in the text prepared by the Chairman of the Conference (A/CONF.164/10). It therefore follows the order of the issues proposed by the Bureau as a model for the organization of our work.

The delegations of Peru and Colombia have already submitted lists of issues in documents A/CONF.164/L.1 of 27 May 1993 and A/CONF.164/L.4 of 2 June 1993, respectively. In the light of the guide to the issues before the Conference prepared by the Bureau, it was considered useful to consolidate the previous submissions into a more organic and systematic text.

Chile, Colombia, Ecuador and Peru, the four countries submitting this document, have benefited from the experience gained in the preparation of a draft regional agreement on the fishing of straddling and highly migratory species in areas of the high seas of the South-East Pacific.

The draft agreement is the culmination of the efforts of the countries members of the Permanent Commission for the South Pacific (PCSP) to protect fish stocks within and beyond their respective jurisdictional zones. Since the beginning of the 1980s, successive ministerial declarations by PCSP member countries have expressed concern at the absence of measures to regulate fishing on the high seas adjacent to the 200-nautical-mile zone. In 1985, the PCSP General Secretariat prepared a draft agreement, but consideration of the text was postponed to allow for continuation of the technical studies which would lay the foundations for agreement.

The new agreement has been proposed by the Peruvian National Division within PCSP. The PCSP Conference of Ministers for Foreign Affairs, held at Lima at the beginning of 1993, approved the initiative. The Ministers of Chile, Colombia, Ecuador and Peru instructed the PCSP General Secretariat to consult with their Ministries of Foreign Affairs before beginning formal consideration of the draft agreement at the Annual Meeting of PCSP Contracting Parties, which will be held at Santiago in August.

The preliminary draft of the agreement consists of a preamble containing the rationale for the agreement, which was prepared "in conformity with, and in addition to, the provisions of the United Nations Convention on the Law of the Sea" with a view to contributing to the progressive development of the relevant international rules.

The body of the agreement consists of 27 articles dealing with definitions, objectives, scope of application, regulated species, general obligations, the role of PCSP, subsidiary organs, collection of data, conservation measures, monitoring and control systems, procedure for formulating and adopting measures, sanctions, register of fishing vessels, register of fishing activities, sub-areas of the agreement, non-parties, financial contributions, settlement of disputes, protection of legal positions, and the standard final clauses.

The purpose of the agreement is to define criteria that can be used to regulate the fishing of straddling and highly migratory species in areas of the

high seas adjacent to the zones under national jurisdiction in the South-East Pacific, in conformity with, and in addition to, internationally accepted norms; coordinate measures for the conservation and sound management of such species; promote research and the collection of the relevant scientific, technological and statistical data; coordinate the implementation of effective monitoring, control and enforcement procedures; and guarantee recourse to compulsory dispute settlement procedures.

The area in which the draft agreement will be applicable is based on the world distribution of fishing zones for statistical purposes of the Food and Agriculture Organization of the United Nations (FAO) and corresponds to area 87 for which PCSP is responsible, excluding the areas under national jurisdiction both in the continental and insular waters of the four countries members of the Commission. This area is described in annex I of the agreement.

Annex II contains a list of the straddling and highly migratory species covered by the agreement. This annex may be amended in the light of subsequent scientific research.

It would be useful to establish an interim secretariat, which would continued to operate until a regional organization was set up to regulate fishing on the high seas in the South Pacific. This function would be assumed by the PCSP General Secretariat, which the member States consider to be the appropriate maritime organization under the terms of the United Nations Convention on the Law of the Sea. As is well known, since its establishment concomitantly with the proclamation of the 200-mile jurisdiction, PCSP has carried out a great deal of specialized work in the conservation of the living resources of the seas, protection of the marine environment, scientific research and the promotion of international maritime law.

The agreement to which the States members of PCSP would become parties would be open to all States whose fishing fleets operate in areas of the high seas adjacent to the jurisdictional zones of the aforesaid States members.

The provisions dealing with the collection of data merit particular attention, since they emphasize the scientific, technological and statistical aspects of the required data in terms compatible with the forward-looking and cautious approach; the adoption of conservation measures applicable to the high seas and which should be consistent with, and in no case less stringent than, the measures applicable to the respective exclusive economic zones of the member States; monitoring and control systems that would be part of the work carried out by FAO; a consensus procedure for formulating and adopting conservation measures; penalties regime, under which penalties would be commensurate with the nature of the offence and the illegal economic profits derived therefrom; mechanisms for registering fishing vessels and fishing activities similar to those already established by the countries of the South Pacific Forum; and the compulsory recourse to dispute settlement mechanisms.

In the light of the experience gained from the draft agreement that has just been described, Chile, Colombia, Ecuador and Peru consider that an agreement on an international regime to regulate and ensure the conservation and proper management of high seas fisheries can be established advantageously only through a binding instrument.

Such a treaty, convention or protocol should reaffirm the validity of the United Nations Convention on the Law of the Sea and contribute to the application of the principles contained in the Declaration of Cancún on responsible fishing, the Tlatelolco Platform on Environment and Development and chapter 17 of Agenda 21.

I. AIMS OF THE INTERNATIONAL REGIME

The objectives of the international regime shall be as follows:

1. To define the criteria applicable to the regulation of fishing of straddling and highly migratory species in areas of the high seas adjacent to the zones of national jurisdiction of the States parties.

2. To coordinate among the contracting parties measures for the conservation and sound management of such species.

3. To promote the investigation and collection of relevant, scientific, technical and statistical data.

4. To adopt effective monitoring, control and enforcement procedures.

5. To ensure recourse to compulsory dispute settlement procedures.

II. CONSERVATION AND MANAGEMENT MEASURES

Any measures to be established for the conservation and sound management of regulated species shall be designed to ensure the optimum sustainable yield, as qualified by relevant environmental and economic factors.

As far as possible, these measures shall include:

1. Establishment of the maximum catch allowable per species, geographical area, season or fishing vessel.

2. Setting of minimum sizes for stocks of harvested species and a minimum permissible mesh size.

3. Prohibition of specific fishing gear and equipment, and also of practices which pollute the marine environment.

4. Use of effective procedures to reduce incidental catches of other accompanying species that are useful or protected to a minimum.

5. Establishment of conservative quotas for species which have not been the object of proper assessment.

6. Declaration that fisheries are saturated or establishment of closed seasons when there are signs which suggest that exploitation of specific species is nearing levels at which the population may become seriously threatened.

III. COOPERATION MECHANISMS IN THE REGIONAL FRAMEWORK

The United Nations Convention on the Law of the Sea establishes the general obligation of all States to cooperate in the conservation and management of the living resources of the high seas. This obligation is the basis for the entire system of the Convention and is part of customary international law.

The United Nations Convention on the Law of the Sea clearly foresaw that the most appropriate way of resolving the problems of conservation and management would be to establish this obligation to cooperate. Article 117 refers to the duty [of States] to take, or to cooperate with other States in taking, measures for their respective nationals. Article 118 reiterates this and also adds the obligation to enter into negotiations when nationals of several States exploit identical living resources, or different resources in the same area, and that of establishing subregional or regional fisheries organizations.

While the Convention does not spell out the content of such cooperation nor specify the institutional mechanisms whereby it is to be effected, there are precedents which facilitate the joint elaboration of conservation and management measures. With regard to bilateral relations between States, it is necessary to institutionalize a consultative mechanism between the coastal State and the distant-water fishing State. With regard to multilateral relations between several States, the mechanism should be developed and applied by the regional organization.

The fundamental questions are: What procedure should be applied to the adoption of the measures? What happens if no agreement is reached? Is there an obligation to accept "reasonable proposals"?

It is suggested that the following procedure be established for such purposes:

1. Proposals concerning measures for the conservation and sound management of the regulated species in the area covered by the agreement shall be drawn up on the basis of the best scientific evidence available within six months of the signing of a regional agreement by member States. In addition, proposals will be introduced with regard to the system for monitoring, controlling and enforcing applicable measures in the area covered by the agreement, and the regime of penalties for those who violate such measures.

2. Any proposals which the signatory and acceding States adopt by consensus shall become binding on them all, as from the date on which they become contracting parties.

3. If consensus cannot be reached on one or more of the proposals, the Secretariat of the regional organization shall, within a period of 30 days, deliver to the signatory and acceding States a revised text of such proposals, taking the observations formulated into account.

4. The signatory and acceding States shall have 30 days in which to submit their comments to the Secretariat of the regional organization; the latter shall

circulate a second version of the proposals to all signatory and adhering States, requesting their comments.

5. Thirty days after receipt of the last comment the Secretariat of the regional organization shall convene a meeting of signatory and acceding States in order to submit to them the final version of the proposals in question.

6. In the absence of consensus on one or more of these latter proposals, once the regional agreement enters into effect, any conservation measures that States members may have adopted within their jurisdictional zones, with respect to the regulated species, shall be respected by all States whose nationals fish such species within the area covered by the agreement.

IV. PARAMETERS GOVERNING THE CONSERVATION AND MANAGEMENT OF RESOURCES BY REGIONAL ORGANIZATIONS

1. The fish stock or stocks to which the regional agreement applies

(a) The agreement should apply to all species found in the area covered by the regional agreement which, according to available scientific evidence, are considered to be common or straddling stocks by virtue of their customary movements or range of distribution during their life cycle. It also should apply to all species found in the area covered by the regional agreement which, according to available scientific evidence, are considered "highly migratory" by virtue of their customary movements or range of distribution during their life cycle;

(b) An appropriate method would be to identify the species covered by the regional agreement in one or more annexes, which can be modified as new scientific knowledge comes to light.

2. Geographic area

(a) One approach would be to use the definition of areas, subdivided in turn into scientific and statistical sub-areas, employed by FAO, but excluding the portions of those areas under national jurisdiction;

(b) Another option would be to use as a basis the regional features which affect or characterize the ecology of the international zone adjacent to one or more coastal States.

3. Members of the agreement

Coastal States and States engaged in fishing activities in the zone covered by the agreement which agree to become contracting parties constitute members of the agreement.

4. Duty to participate in regional fisheries organizations or arrangements

This should be stipulated in the agreement.

5. Internal structures

These structures will reflect the circumstances in the region concerned.

6. Financing

Although the contributions arrangement will vary with regional capacity, one possible formula would be to allocate a percentage of the value of annual catches of regulated species by flag-State fishing vessels in the area covered by the regional agreement.

7. Relationship with regional organizations

Existing small regional organizations might, on either a temporary or permanent basis, serve as the technical secretariat or coordinating body with respect to the activities prescribed in the regional agreement.

8. Non-parties

The contracting parties shall draw the attention of any State not a party to the regional agreement to any matter pertaining to fishing activities by nationals or vessels of that State in the area covered by the agreement that might adversely affect the fulfilment of its objectives. In addition, the contracting parties should agree on what action should be taken where necessary to prevent such adverse occurrences.

9. New entrants

The logical counterpart to the duty of States which have established a joint regime for the administration of an area of the high seas not to discriminate against other States wishing to gain access to the fishery is the obligation of the new entrant to cooperate in good faith and comply with existing management measures.

10. Developing countries

The specific requirements of the developing countries should be taken into account within the framework of the international high seas regime; in particular, they should be provided with technical assistance and financial support to enable them to participate in high seas fishing.

V. FUNCTIONS OF REGIONAL FISHERIES ORGANIZATIONS OR ARRANGEMENTS

1. To promote the adoption by the contracting parties of appropriate measures for the conservation and sound management of regulated species in the area covered by the agreement, in order to maintain or restore populations of those species at levels which can produce the optimum sustainable yield, as qualified by relevant environmental, ecological and economic factors, and taking into account the best scientific evidence available.

2. To ensure that States members harmonize the conservation measures applicable within their respective jurisdictional zones in order to facilitate compliance with such measures by all States in adjacent areas where no agreement to that end exists between the contracting parties.

3. To determine, on the basis of the best scientific evidence available, whether one or more regulated species is being harvested in the area covered by the regional agreement above levels at which their reproduction may become seriously threatened; and, in such cases, to adopt any protective measures deemed necessary, including declaring fisheries saturated and establishing closed seasons.

4. To request from the contracting parties and competent international organizations any scientific data they may have regarding the distribution, abundance, biology, biometrics, ecology, fishery and population dynamics of regulated species, as well as regarding the impact of the exploitation thereof on the environment and on the respective ecosystems of the area covered by the regional agreement and areas under the jurisdiction of member States.

5. In addition, to request from the contracting parties and competent international organizations data on vessels operating in the area covered by the regional agreement, catch and fishing effort statistics and other data relevant to the conservation and sound management of regulated species.

6. To those ends, to maintain a register of fishing vessels authorized by their respective States to operate in the area covered by the regional agreement and a register of the fishing activities of such vessels carried out pursuant to the agreement.

7. To the extent possible, to promote, coordinate, conduct, assess, publish and disseminate scientific, technical and statistical studies, research and data on the fishing of regulated species within the area covered by the agreement and in areas under the jurisdiction of member States, and to exchange information with national and international entities having similar objectives.

8. To provide a forum for consultation and cooperation among the contracting parties on the study, assessment and exchange of information regarding regulated species and the environmental and ecological factors involved.

9. Using the data at its disposal, to consult with and answer queries from the contracting parties on any matter referred to in this article.

10. Together with the contracting parties, to coordinate the implementation, in the area covered by the agreement, of systems for the monitoring, control and enforcement of agreed measures to ensure the conservation and sound management of regulated species, including the imposition of penalties on violators.

11. To seek from the contracting parties or competent international organizations the economic and technical assistance which they are in a position to provide, in order to facilitate the attainment of the objectives envisaged in the regional agreement.

VI. COLLECTION AND PROVISION OF INFORMATION

1. The secretariat of the regional organization, initially with the cooperation of the signatory States and, when the time comes, with that of all the contracting parties and of the competent international organizations, shall endeavour to assemble:

(a) The best scientific evidence, particularly on the delimitation of the range of distribution of regulated species in the area covered by the regional agreement; the structure, migration and interaction of the stocks of these species, their concentrations and reproduction rates and other relevant data concerning their life cycles; the functioning of ecosystems and of bio-economic interactions between fisheries; and other information providing a better knowledge of the vital ocean habitats and spawning and reproduction zones of the main species, and of the characteristic oceanographic conditions in which they live;

(b) All available technical information concerning fishing vessels that are authorized to exploit regulated species in the area covered by the regional agreement, including their capacity, power, fishing gear and equipment used, range and location of their operations, patterns and seasonal and special movements of fleets; and also information on the most appropriate systems for monitoring fishing grounds through transmitters connected by satellite and access to land-based data banks; information on the characteristics of fishing vessels and the most appropriate fishing gear and equipment for fishing regulated species in the area covered by the agreement, on the use of appropriate technological methods to allow coastal developing States to participate effectively in the conservation and sound management of such species in areas adjacent to the areas under their national jurisdiction, and on the possibility that, for those purposes, coastal developing States will benefit from programmes of technical assistance, training and transfer of technology;

(c) All available statistical data concerning the fishing of regulated species in the area covered by the regional agreement, including basic data on catches and fishing effort according to type of fishing gear and method; incidental catches of other useful species and discards by area and type of fishing gear; transshipment operations, unloading and marketing; and also the establishment of regional data base systems available to all the contracting parties.

2. For the purposes referred to in paragraph 1, subparagraph (a), the secretariat of the regional body shall request the cooperation of the States

concerned and of the competent international organizations in carrying out international programmes of research on regulated species in the area covered by the regional agreement, including, where possible, conducting joint scientific research or correlating the operations and results of research carried out separately.

VII. COMPLIANCE WITH THE MEASURES

1. Monitoring, control and enforcement systems

The monitoring, control and enforcement systems that are adopted under the regional agreement must make it possible to verify compliance with the agreed conservation and management measures, and for that purpose shall provide for:

(a) The use of satellite data-transmission systems to report positions, catches and fishing effort;

(b) The use of other aerial monitoring systems and cooperative observation and control methods, including the presence of on-board observers and the granting to one another of authority to make inspections and verifications at the time of unloading and in the processing areas;

(c) The provision of the relevant technical and statistical information;

(d) The inclusion, in the internal legislation of the contracting parties, of provisions prohibiting vessels that fly their flag from fishing these regulated species in the area covered by the agreement in violation of the agreed conservation measures; and

(e) The establishment of effective enforcement systems, whether arrests and prosecutions are carried out by the flag State, whether joint enforcement procedures are agreed upon with the coastal State, or there is reciprocal authorization for arrests or prosecutions by any contracting party, and especially by the coastal State in cases of violations which directly affect their interests.

2. Penalties

(a) The system of penalties established in cases of violations of the measures adopted under the regional agreement must take into account the principle that the penalty must be commensurate with the nature of the offence and with the illegal economic profits derived therefrom, and shall include the procedure to be followed in imposing such penalties, and notifying the secretariat of the competent regional body of the action taken by the States concerned;

(b) The secretariat of the competent regional body shall encourage member States to harmonize the system of penalties applicable, within their jurisdictional zones to the fishing of species regulated under the agreement, bearing in mind that, if no consensus is reached on the proposed penalties or if

the proposed time limits have expired, all States will have to comply with the system;

(c) In that event, if the States whose nationals fish regulated species in the area covered by the regional agreement fail to comply with the measures established by the member States, the latter shall take such additional steps as they may deem appropriate, at both the domestic and international level, to ensure the protection of their rights and interests.

VIII. OTHER ASPECTS OF THE ENFORCEMENT OF CONSERVATION AND MANAGEMENT MEASURES

1. Register of fishing vessels

The Secretariat of the regional organization shall maintain a register of all fishing vessels authorized by the States of their flag to exploit regulated species in the area covered by the regional agreement. For this purpose, the respective States shall communicate to the Secretariat of the regional organization the characteristics of such vessels, as well as the names, nationalities and addresses of the shipowner and of the captain or employer.

2. Register of fishing activities

(a) The Secretariat of the regional organization shall also maintain a regional register of fishing activities in which it shall enter the information provided each quarter by the contracting parties on fishing of regulated species by vessels flying their flag in the area covered by the regional agreement; it shall include data on the species harvested, place, date and volume of catch, incidental catch and other related data;

(b) These data shall be collated, as far as possible, with the data obtained by the Secretariat of the regional organization through the satellite data-transmission system and other monitoring and control arrangements.

3. Flags of convenience

States which permit the use of flags of convenience shall take all necessary measures to ensure that this practice is not employed with the aim of evading compliance with the measures for the conservation and sound management of regulated species in the area covered by the regional agreement. For this purpose, they shall authorize other States to exercise controls, and to impose and enforce the necessary penalties.

IX. SETTLEMENT OF DISPUTES

1. The ideal rule is set out in Part XV, Section 2, of the United Nations Convention on the Law of the Sea, which requires that disputes arising from a conflict of interest in relation to high seas fisheries resources be submitted to a court or tribunal for compulsory dispute settlement. However, there is no binding obligation under international law to resort to dispute settlement mechanisms involving third parties, thus the provisions of the United Nations Convention on the Law of the Sea cannot be considered to be applicable until that convention enters into force.

2. However, even before such entry into force, States may agree to submit to dispute settlement procedures within the framework of regional or subregional organizations.

3. On this basis, where a dispute arising from the interpretation or implementation of the regional agreement and of measures adopted in relation thereto is not settled by some other peaceful means selected by the contracting parties, it shall be submitted, at the request of any of the parties to the dispute, to the competent court or tribunal established by the parties. The decisions of such court or tribunal shall be final and shall be binding on all parties.

4. Given the technical nature of many of the possible disputes, formulas which have been proposed for some transboundary disputes relating to the environment may be applied, such as recourse to national courts to which both parties have conferred authority; technical panels; and environmental hearings combined with periodic reports from Governments, which may be discussed in a regional or international forum, such as the Commission on Sustainable Development. Lastly, procedures for the conciliation of disputes between the parties should be formalized.

X. COMPATIBILITY AND COHERENCE BETWEEN NATIONAL AND INTERNATIONAL MEASURES FOR THE CONSERVATION AND MANAGEMENT OF THE LIVING RESOURCES OF THE HIGH SEAS

In order to achieve these objectives, the following measures must be taken:

1. Implementation of the provisions of article 116 of the United Nations Convention on the Law of the Sea regarding the right of nationals to engage in fishing on the high seas "subject to the rights and duties as well as the interests of coastal States". This may be done through:

(a) A mechanism for consultations on the adoption of any measure that may affect straddling fish stocks in the high seas adjacent to the exclusive economic zone of that State or highly migratory fish stocks in the "region" delimited for their conservation and management;

(b) A mechanism to assess the environmental impact of regional fishing activities both in the exclusive economic zone of the coastal State and in the area of the high seas to which the conservation and management measures apply;

(c) A periodic review of the degree of effectiveness and compliance with the agreed standards.

2. Considering the unity of the ecosystem as a principle of conservation and management, taking due account of the relationship between species and their habitats.

3. Ensuring that the standards established in respect of an area of the high seas are no less stringent than those applicable to the exclusive economic zone or zones adjacent to that part of the high seas.

4. Where agreement is reached on a standard that is more stringent than that which is applied in the exclusive economic zone of the coastal State, such State shall undertake to voluntarily apply the agreed standard in its exclusive economic zone.

5. Where no consensus is reached on a "reasonable" proposal for a minimum standard, following the procedure for the adoption of conservation and management measures, the standards in force in the exclusive economic zone of the coastal State shall be applied.

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ELEMENTS OF AN INTERNATIONAL AGREEMENT ON THE CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS ON THE HIGH SEAS

(Working paper submitted by the delegations of Chile, Colombia, Ecuador and Peru)

Corrigendum

Page 6, section IV, subsection 1

Insert new subparagraph (c) as follows:

(c) In the case of the South-East Pacific, the list of species should not include stocks of larger cetaceans regulated by the International Whaling Commission (IWC) or any other organization which may succeed it. Other highly migratory species whose exploitation is regulated by specific regional or global agreements, such as, inter alia, the Inter-American Tropical Tuna Commission (IATTC), should also be excluded from the list.

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New York, 12-30 July 1993

PRINCIPLES ON STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS FOR USE BY STATES, ENTITIES AND REGIONAL ORGANIZATIONS

(Comments submitted by the United States of America on a guide to the issues before the Conference prepared by the Chairman)

The United States wishes to express its appreciation for the document presented by the Chairman on subjects and issues for the guidance of the Conference (A/CONF.164/10). The introductory material on the background of the Conference setting forth the relevant provisions of the United Nations Convention on the Law of the Sea on straddling fish stocks and highly migratory fish stocks, as well as the relevant provisions of the Convention that deal with conservation and management of living marine resources, is particularly helpful. The distinct treatment of straddling fish stocks and highly migratory fish stocks contained in the Convention is fundamental.

The United States believes that the Conference should identify and assess the urgent problems related to the conservation and management of straddling fish stocks and highly migratory fish stocks, before focusing on the form of the outcome of the Conference. The Chairman's guide has identified issues to be addressed, and the United States submits the following general principles which should be considered for use by States, entities, and regional organizations.

I. THE NATURE OF THE CONSERVATION AND MANAGEMENT MEASURES TO BE ESTABLISHED THROUGH COOPERATION

1. Conservation regimes should recognize the principle of conserving resources at levels no less than those which will produce the long-term maximum sustainable yield, rather than short-term profits.

2. Conservation regimes should emphasize multi-species, ecosystem-oriented management.

3. Allowable catch levels should be established based upon the best available scientific information and should take into account uncertainties concerning the size and productivity of the resource and its interrelationships with other resources.

4. Fish stocks should be managed in a precautionary manner, recognizing that this approach does not necessarily require a moratorium on fishing in a particular case, but that utilization should maintain the stocks at a productive level and preserve future use options.

5. States, entities and regional organizations should collect and share catch and effort data, including by-catch data, in an agreed format and time-frame. The United States has prepared a separate information paper entitled "Statistical reporting on high seas fisheries" regarding this important subject.

6. States and entities should conduct scientific activities. Stock assessments should accompany fishing and be conducted with the cooperation and participation of other States and entities. The status of both target and associated species should be monitored to verify that catch levels are not having unacceptable impacts. Scientific cooperation should be encouraged.

7. States, entities and regional organizations should promote environmentally safe fishing technologies and responsible fishing practices, including minimizing pollution, by-catch and other forms of waste. The United States fully supports the development by the Food and Agriculture Organization of the United Nations (FAO) of an international code of conduct for responsible fishing.

8. Regional organizations should include efficient decision-making processes, which could include dispute-settlement mechanisms which could be readily invoked and which would dispose of disputes expeditiously.

II. THE MECHANISMS FOR COOPERATION

1. Concerned States and entities should cooperate to form organizations or bodies responsible for establishing conservation regimes in specific geographical regions.

2. States and entities should join and/or cooperate with regional organizations for the conservation and management of fishery resources if they fish such resources in a specified geographical area. New members of a conservation regime should generally be entitled to accrue benefits from the obligations that they share to conserve the resource. However, all States and entities should give due consideration to the ramifications that would result from their initiating a new fishery on a resource which is already fully utilized.

3. States and entities should prevent flagging of vessels for the purpose of avoiding conservation regimes or any other activity that would undermine the conservation and management of resources. The United States strongly

supports the initiative of the FAO to conclude as a matter of priority a global legally binding regime on the flagging of vessels authorized to operate on the high seas. States and entities should cooperate to prevent fishing by non-members that undermines conservation and management measures. Effective remedies could include measures against those operating in a manner that undermines conservation measures.

4. Assistance and consideration should be available to developing countries to enable them to develop their capabilities while fulfilling their obligations relating to the conservation and management of straddling fish stocks and highly migratory fish stocks.

III. RESPONSIBILITIES OF REGIONAL FISHERIES ORGANIZATIONS OR ARRANGEMENTS

1. The conservation programmes established by States and entities should be fully consistent with the provisions of the United Nations Convention on the Law of the Sea.

2. Regional organizations or arrangements should emphasize multi-species, ecosystem-oriented management and other approaches which take into account the relationships among species and their habitats. The differences among resources should also be taken into account, and the fact that the principles which apply to one species, or group of species, may not apply to all others.

3. Regional organizations or arrangements should include provisions to establish conditions for allowing entry by new participants, on a case-by-case basis.

4. Regional organizations or arrangements should address monitoring, control, surveillance and enforcement.

5. Regional organizations or arrangements should encourage scientific cooperation, including the collection and sharing of relevant catch and effort data, including by-catch data, as well as other data - biological or otherwise - in an agreed format and time-frame.

6. Regional organizations or arrangements should be transparent. Organizations and individuals concerned with straddling fish stocks and/or highly migratory fish stocks should be afforded the opportunity to participate in meetings of such bodies as observers or as is otherwise appropriate.

IV. COMPLIANCE WITH CONSERVATION AND MANAGEMENT MEASURES

Flag States and entities should ensure that their vessels follow agreed conservation and management measures (including effective monitoring, control and surveillance) and should establish adequate penalties to deter violations. Flag States and entities should ensure that their fisheries are adequately regulated and monitored to permit timely assessment of

environmental impacts and the state of the exploited resource. The United States has prepared a separate information paper entitled "Monitoring high-seas fishing vessel operations by satellite", which provides a description of the experience of the United States in the use of remote sensing and satellite monitoring systems to collect real-time data for use in monitoring, control and surveillance of high seas fisheries conservation and management measures on a cost-effective basis.

V. ENFORCEMENT OF HIGH SEAS FISHERIES, CONSERVATION AND MANAGEMENT MEASURES

See section IV above.

VI. NON-PARTIES TO A REGIONAL AGREEMENT OR ARRANGEMENT

See section II above.

VII. SETTLEMENT OF DISPUTES ON MATTERS OF A TECHNICAL NATURE

See section I above.

VIII. COMPATIBILITY AND COHERENCE BETWEEN NATIONAL AND INTERNATIONAL CONSERVATION MEASURES FOR THE SAME STOCKS

1. Regional organizations or arrangements should include the geographical area of the fish stock or stocks being covered, taking into account any special environmental, biological, or other characteristics of the region or stocks concerned.

2. Because straddling fish stocks and highly migratory fish stocks migrate on both the high seas and within exclusive economic zones, interest with regard to these resources relating to both areas needs to be considered, consistent with the United Nations Convention on the Law of the Sea.

REVIEW OF IMPLEMENTATION

The United States proposes that States, entities and regional organizations concerned with the conservation and management of straddling fish stocks and highly migratory fish stocks should be encouraged to implement the foregoing principles regionally, based on the specific resource and social needs in each region concerned. They should report annually on the implementation of the principles to the Secretary-General, who should submit a report to the General Assembly on a regular basis.

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New York, 12-30 July 1993

STATISTICAL REPORTING ON HIGH SEAS FISHERIES

Submitted by the delegation of the United States of America

INTRODUCTION

1. In 1991, the Food and Agriculture Organization of the United Nations (FAO) Committee on Fisheries requested FAO to study the feasibility of reporting catches from high seas fisheries. Such reporting was requested in order to differentiate catches taken in areas under national jurisdiction from those taken on the high seas. The general intent of such reporting was to assess the impact of such fishing and to support the conservation of the world's living resources.

2. Most national reporting authorities either do not collect data by area of capture or, if they do, do not submit the data in that format to any international or regional fishery commission. At present, reporting by national authorities to FAO is submitted via the 52 FAO statistical areas, which were not designed to coincide with national boundaries. This paper presents for discussion several statistical issues that must be resolved in order to obtain comprehensive and accurate data for the high seas areas.

I. REPORTING OF EXISTING DATA

3. At the 15th FAO Coordinated Working Party on Atlantic Fishery Statistics (8-14 July 1992, Dartmouth, Nova Scotia), several participants expressed the opinion that some national reporting authorities may already be collecting data at the level of detail necessary to differentiate high seas catches. The problem consists in the fact that, prior to submission to FAO, the data are aggregated by the reporting authority to the FAO statistical areas, resulting in a loss of detail.

4. For example, various reporting requirements for national or regional commission data collection purposes record catches by 1- or 5-degree squares of latitude and longitude. In such cases, the data could be transformed into high seas statistical areas (discussed below) with the use of computer software, possibly utilizing one of the many commercially available Geographic Information System (GIS) packages. Once the high seas areas are defined, the GIS software could take International Commission for the Conservation of Atlantic Tunas (ICCAT) or Inter-American Tropical Tuna Commission (IATTC) tuna data by 1- or 5-degree squares and partition it into high seas or exclusive economic zone (EEZ) areas. Since tuna are currently the predominant high seas species, the majority of data reporting by high seas areas could be accomplished readily, at least from a technical standpoint.

II. THE CURRENT SITUATION WITH UNITED STATES FLAG VESSELS

5. The United States has only limited data on all fishing activities by its flag vessels outside its own EEZ. Fishing by United States vessels in another nation's EEZ or on the high seas may go unrecorded by the United States Government statistics offices because there is no comprehensive statutory authority regarding the submission of fishery statistics by these vessels. Rather, individual fishery conventions or treaties to which the United States is a party define the reporting requirements for participants which are implemented, in turn, through the United States Code of Federal Regulations (e.g., regulations of ICCAT and IATTC).

6. The problem of fishery statistics on American flag vessels in another nation's EEZ could be improved through the cooperative exchange of data between the host nation and the flag nation. Most often, access to the foreign nation's EEZ is conditioned by the use of fishery observers and/or logbook reporting requirements. Data submitted to the host nation should be made accessible to the fishery authority of the flag nation which reports to FAO. This would serve at least two purposes: it would identify the extent of the flag nation's distant-water fleet and its potential capacity, and it would help to alleviate duplicative reporting to FAO of catches which are sometimes submitted by both the flag nation and the host nation. The role of FAO in coordinating the exchange of data between nations could become a considerable burden.

7. Additional measures to improve data coverage are available when United States flag vessels return home from outside United States EEZ waters with catch still on board (i.e., not transferred at sea or landed at foreign ports). Many individual States have landing laws which require the submission of data regardless of the jurisdiction of capture. Efforts could be undertaken with these States to modify their landing laws to differentiate catches by area where this is not currently the practice. At the Federal level, if the species on board upon return to the United States EEZ relate to management of species under the Magnuson Act Fishery Management Plans, then Federal regulations could require reporting of fish on board upon entry into the United States EEZ.

8. In the case of true high seas fisheries, unless there is a specific convention or treaty, the United States has no reporting mechanism to track the catches of American flag vessels in these waters. Even where regional fisheries organizations exist, the United States may not be a contracting party. Thus,

while regional commissions may serve a coordinating role in the compilation of high seas data for certain species, such an approach will not work where a large percentage of the catch is taken by non-contracting parties. In practice, therefore, it is suggested not only that FAO continue its liaison with regional commissions for high seas data on certain species, but also that it initiate direct consultations with high seas fishing nations for the submission of data for all species taken on the high seas. This assumes that there would be some legal authority by which national statistics offices could require the submission of data.

9. Any recommendation by FAO for national reporting of high seas catches should recognize such an assumption. Moreover, strong international consensus is needed to prove that there is a compelling need for these data. Only then would a national statistics office seek an international (perhaps the United Nations Convention on the Law of the Sea, art. 119, para. 2) 1/ or national authority to help implement a high seas reporting mechanism.

III. THE ROLE OF FAO

10. Owing to its existing contacts and relationships with national reporting authorities and regional fishery commissions, FAO is the logical choice for coordinating the compilation and dissemination of high seas fisheries data. The integration of data from various sources is a formidable task, and the FAO Coordinated Working Party approach has proved a successful forum for the promotion of uniform reporting standards and reconciliation of data problems. In undertaking the task of gathering and reporting high seas fishery data, FAO should consider the extension of the Coordinated Working Party approach beyond its current focus on Atlantic fisheries reporting issues.

11. The problems inherent in existing national reporting systems will be more apparent in any future high seas reporting system. Issues of non-response, validation of self-reported data, flags of convenience, transshipments, landings in foreign ports and processing at sea will influence the completeness and accuracy of the data. FAO can serve as a source of information on how different national reporting authorities handle these issues and develop recommendations from participating nations for inclusion in the FAO Handbook of Fishery Statistics. This could include an assessment of the use of statistical sampling of representative vessels, the deployment of fishery observers for the validation of logbook data and the direct recording of by-catch and discard data.

IV. DATA CONFIDENTIALITY

12. One issue to be resolved in any approach to the differentiation of catches into high seas and EEZ areas is data confidentiality. Publication of data by individual country EEZ could reveal sensitive economic data which, in the case of some nations, could compromise negotiations for access rights to national EEZs. FAO should conduct an evaluation of this issue to examine how widespread such a concern is, and whether its significance would override the successful implementation of a high seas reporting system.

V. ESTABLISHMENT OF HIGH SEAS REPORTING AREAS

13. FAO and others have already mapped areas of the world's oceans not covered by species authorities or regional commissions. Overlaid with the current national EEZ boundaries, the geographic scope of high seas reporting areas becomes clear. Since it is impossible to predict all the uses of the reported high seas fishery data, it is recommended for reporting purposes that a latitude- and longitude-based grid system be implemented. If absolutely necessary, the resolution of reporting could even vary between strata (e.g., by fishery, time and nation) and still be compatible at aggregated levels.

14. There are many benefits of a geo-reference grid system. Computer software could automatically match catch and effort records to the grid system without need for recoding. Once keyed to geo-reference points, the data could be summarized by regional commission area, large marine ecosystem or any variety of aggregations for analysis. For example, physical and environmental data on the oceans obtained by shipboard and satellite platforms could be easily integrated with the catch data base for ecosystems modelling and stock assessment. In addition, overlays of fishing effort by gear types with migratory paths of marine mammals or shipping lanes may help reduce adverse interactions.

VI. SCOPE OF HIGH SEAS DATA SUBMISSION

15. For purposes of discussion, the minimum set of data for high seas reporting should include: annual catch by species by gear, by 5-degree square in areas outside national EEZs, in volume (metric tons) and value at point of first sale.

Notes

1/ "2. Available scientific information, catch and fishing effort statistics, and other data relevant to conservation of fish stocks shall be contributed and exchanged on a regular basis through competent international organizations, whether subregional, regional or global, where appropriate and with participation by all States concerned."

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MONITORING HIGH SEAS FISHING VESSEL OPERATIONS BY SATELLITE

(Submitted by the delegation of the United States of America)

INTRODUCTION

1. The use of remote sensing and satellite monitoring systems allows for more cost-effective monitoring, control and surveillance (enforcement) of high seas fisheries conservation and management measures. Starting in 1988, the United States successfully embarked on a satellite-based vessel-monitoring programme to locate foreign fishermen and monitor compliance with area restrictions on the high seas of the North Pacific Ocean.

2. From 1988 until 31 December 1992, the United States monitored the operations of up to 775 foreign vessels and conducted tests of new vessel-monitoring system (VMS) technology. This paper describes the background, implementation and current technical aspects of the programme. It discusses the results of tests conducted on new systems, discusses specifications and costs and considers future applications to high seas fishing operations.

I. BACKGROUND AND IMPLEMENTATION

3. During the past decade, the development of the North Pacific high seas squid drift-net fishery has come to be of significant concern to world-wide fishing and environmental interests. Fishing and environmental interest groups are disturbed by the fact that the fishery uses a technique that results in the entanglement and death of the marine resources of the coastal states.

4. In 1989 and 1990, the United States negotiated three drift-net agreements. On 12 April 1990, a tripartite international drift-net fishing agreement was signed which, among other things, required real-time automatic satellite position fixing devices (transmitters) to be deployed on all of one party's

squid and large-mesh drift-net fishing vessels operating in the North Pacific from 1990 on. These transmitters allowed automatic, real-time monitoring of the location and identity of each vessel by national officials. Similar bilateral agreements were reached with two other parties in 1989.

5. Parties to the agreements deployed approximately 775 vessels, all equipped with transmitters, to conduct drift-net operations in the North Pacific Ocean in 1990. Each country agreed to fund the purchase, installation, maintenance and data-processing costs involved in this programme. These countries agreed to provide the United States authorities with real-time access to the satellite-generated position data.

6. By every measure, the high seas drift-net fishing vessel monitoring programme was a huge success. In no other area of the world does any other country or international organization monitor fishing vessels in greater numbers or with greater accuracy. Many countries are using this satellite monitoring programme as a model in developing, testing and implementing their own vessel-tracking and fleet-management programmes.

II. THE ARGOS SYSTEM DESCRIPTION

7. The nations party to the drift-net agreements chose the Argos vessel-tracking system for its cost, size, installation convenience and reliability. The Argos shipboard equipment consists of a small transmitter mounted outside the pilot house or on a mast. The transmitter runs off shipboard 12-volt DC power. Signals from the transmitter are broadcast about every two minutes, and are picked up by two National Oceanic and Atmospheric Administration (NOAA) polar-orbiting Tiros-N satellites. In the North Pacific Ocean, positions were received from the drift-net vessels about 10 times per day. At present, one party conducting trial fishing in the central Bering Sea "doughnut hole" has equipped its pollock trawlers with Argos transmitters and has agreed to provide United States authorities with real-time position information.

8. The information sent by the transmitters is stored in the satellites until they pass over an Argos earth-data station. The data are then transmitted to the earth station and relayed to a processing centre (in this case in Toulouse, France), where the signal is converted into readable position information. End-users, through a personal computer using two levels of passwords, access the data stored at the Argos processing centre. The data are then manipulated, printed and/or displayed on mapping software. A mapping/tracking software package called Enhanced Location Software for Argos (ELSA) is used to monitor vessel positions on the computer screen. Boundaries for open and closed areas are part of the software.

III. TESTS OF OTHER VESSEL-MONITORING SYSTEMS

9. In preparing for additional international programmes and anticipated domestic applications of fishing-vessel-monitoring technologies, the United States conducted a successful demonstration of three such technologies off the northwest Hawaiian islands. The systems used for the demonstration were Argos,

International Maritime Satellite Organization (INMARSAT) Standard-C/GPS (Global Positioning System) and HF Radio/GPS. 1/

10. The Argos transmitters used in the demonstration were similar to those being used on the foreign drift-net fishing vessels, with one exception. The Argos transmitters used had peripheral keypads which were programmed to allow the vessel operator to send short messages each time the position information was transmitted.

11. The second system employed in the demonstration also used GPS navigation equipment for position determination and used a high-frequency radio to transmit the GPS position information to shoreside receivers.

12. The entry onto the world market of the INMARSAT store-and-forward communication technology, called Standard-C, resulted in a need to demonstrate this new system. When coupled or integrated with appropriate navigation equipment, such as GPS, an INMARSAT Standard-C transmitter can automatically send accurate position reports to the end-user. The transmitter/GPS unit can be used alone to transmit vessel position data or can be used with a personal computer and printer for two-way communications. Unlike Argos, INMARSAT Standard-C transmitters do not have to wait for a satellite to pass overhead. Position data can be requested at any time by the end-user and it will be transmitted. This ability to "poll" certain vessels is useful for enforcement officials in the monitoring of suspected violations of conservation and management measures.

13. All three fishing-vessel-tracking systems proved their ability to provide accurate and confidential position information. In addition, although not a specific requirement for the demonstration, the Argos system provided confidential one-way messaging and the INMARSAT Standard-C system provided confidential two-way communication capabilities.

IV. SYSTEM SPECIFICATIONS

14. Several companies manufacture and distribute VMS throughout the United States and world wide. Not all systems, however, are compatible with each other. For several reasons, the United States is considering requiring system compatibility for United States vessels. First, fishing vessels that engage in multiple fisheries should not be required to install multiple VMSs. Furthermore it would not be cost-efficient for the United States to install multiple fishing-vessel-monitoring centres/systems in order to monitor vessel activities from multiple VMSs. In order to assure such compatibility, the United States is proposing basic VMS performance criteria and system specifications for its vessels.

15. System standardization for vessels from any country that may operate in their own coastal waters, in international waters or in the coastal waters of another country, or a combination thereof, is important for the reasons stated previously. The proposed United States specifications are outlined below for consideration by the international community:

(a) The VMS shall be tamper-proof, i.e., it shall not permit the input of false positions;

(b) VMS equipment shall be fully automatic and operational at all times, regardless of weather and environmental conditions;

(c) VMS equipment shall be capable of tracking vessels throughout their range and shall provide position accuracy to within 400 metres (this requirement may vary by fishery);

(d) The VMS shall have the capability of transmitting and storing information, including vessel identification, date time latitude, longitude, speed and bearing;

(e) The VMS shall provide accurate position transmissions, the interval between which to be determined by those monitoring the vessel and capable of being set or changed remotely. In addition, the VMS shall allow the monitors to poll individual vessels or any set of vessels at any time and receive position reports in real time;

(f) Under certain conditions, the VMS may be required to provide network message communications between the vessel and shore. (This specification may not be applicable to tracking-only systems). Such communications shall include, but not be limited to, transmitting and receiving telex and full or compressed data messages to and from shore. The VMS shall allow the monitors to initiate communications or data transfer at any time;

(g) Shore station software shall reliably retrieve position records, as defined in subparagraph (d) above, and display such data on a computer monitor. The software must also provide a means for printing such data. The software must include on-screen displays of charts capable of showing boundaries of fishery management areas. The software must be capable of accurately displaying vessel positions on such charts. The software must be capable of providing an alarm, signal, or other notice to shore station operators when a vessel is within 1 nautical mile (1.9 km) of designated closed areas or management area boundaries. The software must provide printer/plotter support for drawing charts. It must have the capacity to archive vessel-position histories for a minimum of one year.

V. COSTS

16. The full range of VMS equipment manufacturers is not known. The cost of hardware equipment from the leading known manufacturers contacted by United States fishery enforcement officials, ranges from $1,000 to $15,000. However, the United States expects the average vessel-tracking-only hardware to cost between $5,000 and $8,000 for equipment which meets VMS specifications. Data-reporting-only or vessel-tracking and data-reporting applications may require the addition of a personal computer and possibly a printer. This could add $1,000 to $3,000 to the cost of the system.

17. The other major cost involved with VMS is that of transmitting data to and from the vessel. Estimates for the cost of vessel-position reports range

between $500 and $1,000 per year per vessel, as the frequency of position reports will vary from one fishery to another. Costs associated with transmitting catch data, other business data and personal data over vessel-monitoring systems varies from one system to the next and cannot be estimated accurately. However, some systems impose a monthly service fee ($70-$80) that includes a limited number of position reports and messages. Additional charges accrue based on the number and length of messages.

VI. POSSIBLE FUTURE APPLICATIONS

18. Law enforcement experts and fishery managers envision many opportunities for developing, promoting and applying satellite technology to the monitoring of vessel and fleet operations in coastal waters and on the high seas. In remote areas of the world, conducting effective surface and aerial patrol operations is cost-intensive. At present, real and potential satellite vessel-tracking projects include operations for the central Bering Sea and numerous domestic applications.

19. Vessel-tracking systems with one- or two-way communication capabilities will greatly assist fishery managers and compliance monitors under proposed individual-vessel quota management regimes. A real-time satellite-based catch reporting system will enable managers to monitor catches, quotas and transfers as they occur and will enable enforcement officials to receive catch reports in a cost-effective manner from the time the catch is brought on board. Where collecting, reporting and disseminating environmental data in real-time is important, this technology is ideally suited. As a safety device, some systems can send distress messages that describe the vessel's position anywhere in the world with an accuracy of 15 to 500 meters.

CONCLUSION

20. Fishery managers, scientists, and law enforcement officials have discussed, studied, deliberated and examined the concept of fishing-vessel-tracking or monitoring systems, often called "black boxes", for over 20 years. The reason is simple. Resources for fisheries surveillance and enforcement are limited, so they must be used effectively. A vessel-monitoring system contributes significantly to cost-effective enforcement of high seas fisheries conservation and management measures. The United States is extremely pleased with the results to date using this technology and is interested in monitoring the location of fishing vessels by satellite and applying associated technology capable of transmitting catch, weather, and other data on a real-time basis.

Notes

1/ Harman, Mager and Springer, Fishing Vessel Tracking: Application for Fisheries Management and Enforcement (Silver Spring, National Marine Fisheries Service, 1991).

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Definition of straddling stocks of marine life and list of their main species

Submitted by the delegation of the Russian Federation

Straddling fish stocks are the stocks formed by those species of marine life which reproduce and spend the greater part of their life cycle (spawning, drifting of eggs and larvae, growth of young fish, migration, etc.) within the 200-mile economic zone and which, in some cases (under the influence of climatic conditions or the need to extend their stock area because of an increase in numbers), may temporarily migrate beyond the 200-mile economic zone into adjacent areas or by species whose natural habitat area includes both the 200-mile zone of the coastal State (the larger part of the stock area) and the adjacent area (the smaller part of the stock area).

Straddling fish stocks form part of a single coastal ecosystem and their conservation should be carried out in accordance with unified principles both within the 200-mile economic zone and in adjacent areas.

LIST OF MAIN SPECIES OF STRADDLING STOCKS

Latin	English
Gadus morhua morhua	Atlantic cod
Melanogrammus aeglefinus	Haddock
Theragra chalcogramma	Alaska pollack
Boreogadus saida	Polar cod
Micromesisteus poutassou	Blue whiting
M.australis	Southern poutassou, Southern blue whiting
Merluccius sp.	Hake
Genypterus blacodes	Ling, kingclip
Macruronus sp.	Blue grenadier, hoki, whiptail
Macrurus berglax	Rough-headed grenadier, rattail, onion-eye
Macrurus holotrachys	Rattail, grenadier
Scomber scombrus	Mackerel
S.japonicus peruanus	Pacific mackerel
Trachurus trachurus trachurus	Horse mackerel, saurel, scad
T.symmetricus murphyi	Horse mackerel, Pacific jack mackerel
T.picturatus symmetricus	Horse mackeral
Sebastes mentella	Deep-water redfish
S.fasciatus	American redfish
S.viviparus	Redfish
S.marinus	Ocean perch, redfish, snapper
Clupea harengus harengus	Atlantic herring
Mallotus villosus villosus	Capelin, lodde
Sardinops sagax sagax	Pacific sardine
Anarchichas minor, A.lupus	Wolffish, catfish
Emmelichthys struhsakeri	Redbait
Caprodon longimanus	Kaprodon, longfin seabass
Hoplostethus atlanticus	Orange roughy
Glyptocephalus cynoglossus	Witch flounder, pale dab, craig fluke
Hippoglossoides platessoides platessoides	American plaice, American dab, rough dab
Limanda ferruginea	Yellowtail flounder, rusty flounder
Reinhardtius hippoglossoides	Greenland halibut
Hippoglossus hippoglossus	Atlantic halibut
Dosidicus gigas	Jumbo flying squid, squid-dosidicus
Illex illecebrosus	Short-finned squid, northern shortfin squid
Illex argentinus	Argentine shortfin squid
Loligo sp.	Longfin inshore squid, common squid, bone squid

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New York, 12-30 July 1993

COMMENTS ON COMPLIANCE AND ENFORCEMENT

(Submitted by the delegation of Australia)

1. As indicated in our opening statement to the Conference, Australia believes that conservation and management of straddling stocks and highly migratory fish stocks would be improved significantly by States exercising full and proper control over the activities of their nationals and the vessels which fly their flags. These obligations are contained in the United Nations Convention on the Law of the Sea and have to some extent been neglected.

2. The burden and costs of action to ensure compliance with and enforcement of conservation and management measures should rest with the flag State. The obligations of the flag State should be supplemented and strengthened by regional or subregional monitoring, control and surveillance schemes. In this respect flag States should comply with their duty to cooperate by engaging in monitoring, control and surveillance of fishing vessels, fishing activities and related activities, including transshipment, under appropriate regional arrangements.

3. We hereby offer some thoughts on the manner by which the obligations of the flag State can be given proper effect. The suggestions include provisions from the Chairman's paper (A/CONF.164/L.10) and input provided by various countries to the Chairman.

4. A flag State whose vessels fish on the high seas should take the necessary measures to ensure that its vessels comply with subregional or regional conservation and management measures. Such action should include:

(a) Adoption of national legislative and administrative measures to ensure that vessels flying its flag comply with agreed conservation and management measures and with other international rules and standards established through competent subregional or regional fisheries management organizations or arrangements;

(b) Control of vessels flying its flag on the high seas by means of fishing licences, authorizations and permits issued by the flag State in accordance with national legislation and, where appropriate, international or regional procedures, including the implementation of national legislation to prohibit fishing on the high seas by vessels that are not duly licensed or authorized to fish;

(c) Marking of fishing vessels and fishing gear for identification in accordance with uniform and internationally recognizable vessel- and gear-marking systems, such as the Standard Specifications for the Marking of Fishing Vessels of the Food and Agriculture Organization of the United Nations (FAO);

(d) Supervision of transshipment and verification and validation of catch records through observer programmes, unloading reports, dockside monitoring and monitoring of catch landings and market information;

(e) Implementation of national and regional observation and inspection schemes, including requirements for vessels flying its flag, to permit access by and provide accommodation for observers and/or inspectors from other States;

(f) Use of satellite data transmitter equipment for reporting position, catch and effort information, in accordance with national and regionally integrated systems;

(g) Compliance with the requirements of national, subregional, regional and international registers of vessels authorized to fish on the high seas;

(h) Ensuring that vessels flying its flag comply with global and regional standards for collection of catch, effort and other pertinent data in the agreed format and time-frame;

(i) Funding and conduct of scientific research on fisheries resources and participation in regionally agreed or multilateral scientific observation programmes;

(j) Requiring compliance with international minimum standards for responsible fishing practices;

(k) Cooperation with other States in dealing with fishing vessels not entitled to fly the flag of any other State and vessels which conceal their identity.

5. In addition, States should institute the procedures necessary to ensure effective enforcement of applicable international management measures and other international rules and standards. These procedures should include, as a minimum:

(a) Immediate investigation of any alleged violation of international management measures, or other international rules and standards established through competent subregional or regional fisheries management organizations or arrangements. This should include undertaking physical inspection of the vessel concerned;

(b) Prompt reporting to the aggrieved State and the relevant regional/subregional organization on the progress and outcome of the investigation. Such information should be made available to all interested States;

(c) Institution of penalties in respect of contraventions which should be of sufficient weight to act as a deterrent, to be effective in securing compliance, and which should deprive offenders of any benefits accruing from their illegal activities.

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SUGGESTED GUIDELINES

(Submitted by the delegation of the European Economic Community)

I. CONSERVATION AND MANAGEMENT

1. According to the relevant provisions of the United Nations Convention on the Law of the Sea, States 1/ are collectively under an obligation to conserve and manage straddling stocks and highly migratory species and should therefore commit themselves to:

(a) Responsible fishing in order not to jeopardize the integrity of marine ecosystems;

(b) Rational and sustainable utilization of these resources with a view to ensuring better integration of environmental and development objectives as well as the long-term needs of present and future generations.

2. In fulfilling their obligation to conserve and manage those stocks, States shall take conservation measures which may comprise total allowable catches (TACs) and/or, as appropriate, other instruments which limit fishing efforts, and which:

(a) Are designed to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States, taking into account fishing patterns, the interdependence of stocks and any recommended international minimum standards;

(b) Take into consideration the effects on species associated with or dependent upon harvested species, with a view to maintaining or restoring populations of such associated or dependent species above levels at which their reproduction may become seriously threatened.

States concerned shall ensure that conservation measures and the implementation thereof do not discriminate in form or in fact against the fishermen of any State.

3. In this regard, the States concerned shall ensure that conservation and management measures:

(a) Are concerned with the whole stock as a biological unit in its entire area of distribution, taking into account all relevant factors, including, in particular, the impact of any such measure on areas of national jurisdiction of the coastal States concerned;

(b) Are designed with due regard to the rights of other States, whether they are coastal States or other States fishing for stocks beyond the areas of national jurisdiction of the coastal States.

There should be consistency between the measures applicable within the areas of national jurisdiction and those applicable beyond, while respecting the rights of all States having an interest in such fish stocks.

4. Depending on the specific characteristics of fisheries and fishing areas, conservation and management measures may comprise and result in a combination of:

(a) Regulation of access through authorizations, licences, etc.;

(b) Regulation of fishing instruments;

(c) Regulation of fishing activity, including fishing effort limitation;

(d) Technical conservation measures.

5. Management measures shall be based on the best scientific advice available, taking into account the levels of acceptable uncertainty when taking such measures. To this end, it is necessary for the States concerned:

(a) To promote scientific research with respect to all relevant factors, including those factors other than fishing activities, such as the effects of natural and man-made environmental changes;

(b) To carry out impartial and transparent research actions, the results of which should be made available to all interested States and/or international fisheries organizations;

(c) To focus on resource assessment and management models based on multi-species approaches, as well as the selectivity of fishing gear and the use of environmentally safe fishing techniques, in order to minimize waste, discards and the catching of untargeted species, in particular endangered species, taking into account the need to protect biodiversity;

(d) To harmonize statistical grids and data collection and treatment procedures, with a view to improving the collection and the timely dissemination of accurate and complete statistical data relating to catches, including

by-catches, fishing efforts and any other relevant information deemed necessary to ensure that the best scientific evidence is in fact available (in this context, some of the information required for stock-assessment purposes might be confidential).

6. In the absence of sufficient scientific evidence, fisheries should be managed in a cautious manner, taking into account the specific particulars of the fisheries concerned. Precautionary management does not necessarily require moratoria or any other unnecessarily restrictive measures. Fishing activities to which precautionary management is applied should be subject to enhanced monitoring in order to keep the precautionary measures under continuous review. Such measures should be revised or repealed once new scientific information indicates that normal management may be resumed.

II. INTERNATIONAL COOPERATION

7. All States concerned shall cooperate with each other in the conservation and management of straddling stocks and highly migratory species. To this end, States shall negotiate in good faith with a view to agreeing, at the appropriate bilateral or multilateral level, on the necessary conservation measures for such stocks in the relevant maritime areas.

8. States shall, as appropriate, cooperate to establish subregional or regional organizations for the conservation of such stocks. In the absence of such organizations, States shall cooperate with each other in the conservation and management of the stocks concerned.

9. Pending or failing any agreement on the necessary conservation measures, States concerned shall have due regard to the rights and obligations of other States.

10. International fisheries organizations shall be open, on a non-discriminatory basis, to all States interested in the exploitation of the stocks concerned. Only those States which cooperate in the decision-making of regional or subregional fisheries organizations, or which are willing to bear responsibility for those decisions directed towards conservation and management of the stocks concerned, should have access to regulated fish stocks in the specific area. States which are not members of an existing competent regional or subregional fisheries organization shall be invited to join and should join that organization. States which do not join an existing fisheries organization, or do not cooperate in establishing such an organization, are not thereby discharged from the obligation to cooperate in the conservation and management of such stocks.

11. International cooperation shall provide the institutional mechanisms necessary for the adoption of effective conservation and management measures, fully consistent with the United Nations Convention on the Law of the Sea. Such mechanisms may also comprise, as appropriate, collection and dissemination of statistics, research, monitoring, surveillance, control and specifically adapted dispute settlement procedures. International fisheries organizations, when taking conservation and management measures, shall follow the best scientific

advice available. Where such advice is not available, they should set up scientific committees.

12. States having the duty to cooperate should, within the structure of competent fisheries organizations, achieve consistency between conservation and management measures applicable within the areas of national jurisdiction and those applicable beyond those areas, taking into account the different legal regimes while respecting the rights of all parties concerned.

13. Decisions or recommendations adopted by international fisheries organizations shall be effectively implemented and enforced by States members of those organizations.

14. States that are not members of international fisheries organizations shall ensure that fishing vessels entitled to fly their flag do not engage in any activity that undermines the effectiveness of internationally agreed and applicable conservation and management measures.

15. States which are members of an existing competent regional or subregional fisheries organization should undertake appropriate efforts, consistent with international law, to ensure that no vessels engage in any activity contrary to the objectives of that organization.

16. Adequate assistance, including scientific and technological cooperation, should be provided to developing countries to enable them to fulfil their obligations relating to the conservation and management of the stocks concerned.

Notes

1/ For the purpose of this document, the term "State" should be interpreted as including the European Economic Community in matters within its competence.

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New York, 12-30 July 1993

CONSEQUENCES OF UNSCIENTIFIC FISHING FOR ALASKA POLLACK IN THE ENCLAVE OF THE SEA OF OKHOTSK

(Submitted by the delegation of the Russian Federation)

Since the early 1960s, Russia has been fishing for Alaska pollack in the Sea of Okhotsk. Its fishing activities have been conducted on the basis of scientific data, ensuring compliance with stock conservation and management measures and optimal utilization of the stocks concerned.

Annual scientific expeditions to study the reproductive capacity of Alaska pollack, to count young fish and to conduct trawl-mounted acoustic surveys to assess commercial stocks have made it possible to determine the total allowable catch and to develop measures for the conservation of stocks both of Alaska pollack, in accordance with its biological status, and of the commercial species associated with Alaska pollack: herring, halibut and certain mammals.

The system for the conservation of the Sea of Okhotsk Alaska pollack stocks is based on the precautionary approach and provides for the following principal measures to regulate their exploitation:

1. The total allowable catch for Alaska pollack is established for the Sea as a whole and divided up among the various fishing areas. As in the past, this includes the allocation of catch quotas within the 200-mile zone of the Russian Federation to a number of other countries, on the basis of bilateral agreements and the principle of the maintenance of traditions.

2. Specific fishing grounds are identified for each type of vessel, taking into consideration the incidental catch of species associated with Alaska pollack.

3. The fishing season is limited.

4. Fishing is suspended during the intensive spawning period.

5. There are restrictions on fishing gear and methods.

6. Conservation zones are established in areas where Alaska pollack are most densely concentrated and the movement of transport vessels and other shipping operations are prohibited in those areas.

7. There is a total prohibition on the fishing of Alaska pollack in the central part (enclave) of the Sea of Okhotsk.

The central part of the Sea (the enclave) is of particular importance for regulating the fishing of Alaska pollack in the Sea of Okhotsk since it is there that the subpopulations of Alaska pollack which reproduce in the north-west, east and north of the Sea intermingle. It is because the mixing of the different subpopulations takes place in this area that a permanent ban on fishing was imposed here. This ban is observed both by the fishing fleet of the Russian Federation and by countries which have traditionally fished in the Sea of Okhotsk.

Since 1991, however, vessels of a number of States have been carrying out unscientific fishing of Alaska pollack in the central region of the Sea, without consulting the coastal State about measures essential for conservation. The Alaska pollack in question reproduce in spawning grounds lying within the exclusive economic zone of the Russian Federation. These fishing practices have destroyed the entire system of measures for the conservation and management of Alaska pollack stocks.

Thus, through unregulated fishing, the total Alaska pollack catch in 1992 alone exceeded by one and a half times the total allowable catch recommended by scientists. The enclave is also being used by these vessels for illegal fishing in waters of the Russian 200-mile zone adjacent to the enclave.

Because of over-fishing, scientists were obliged to reduce the total allowable catch in the Russian zone in 1992 and 1993 in order to prevent spawning stocks from being totally eliminated over the next few years, as is already happening in the Bering Sea. This reduction in the total allowable catch aroused protests from Russian fishermen.

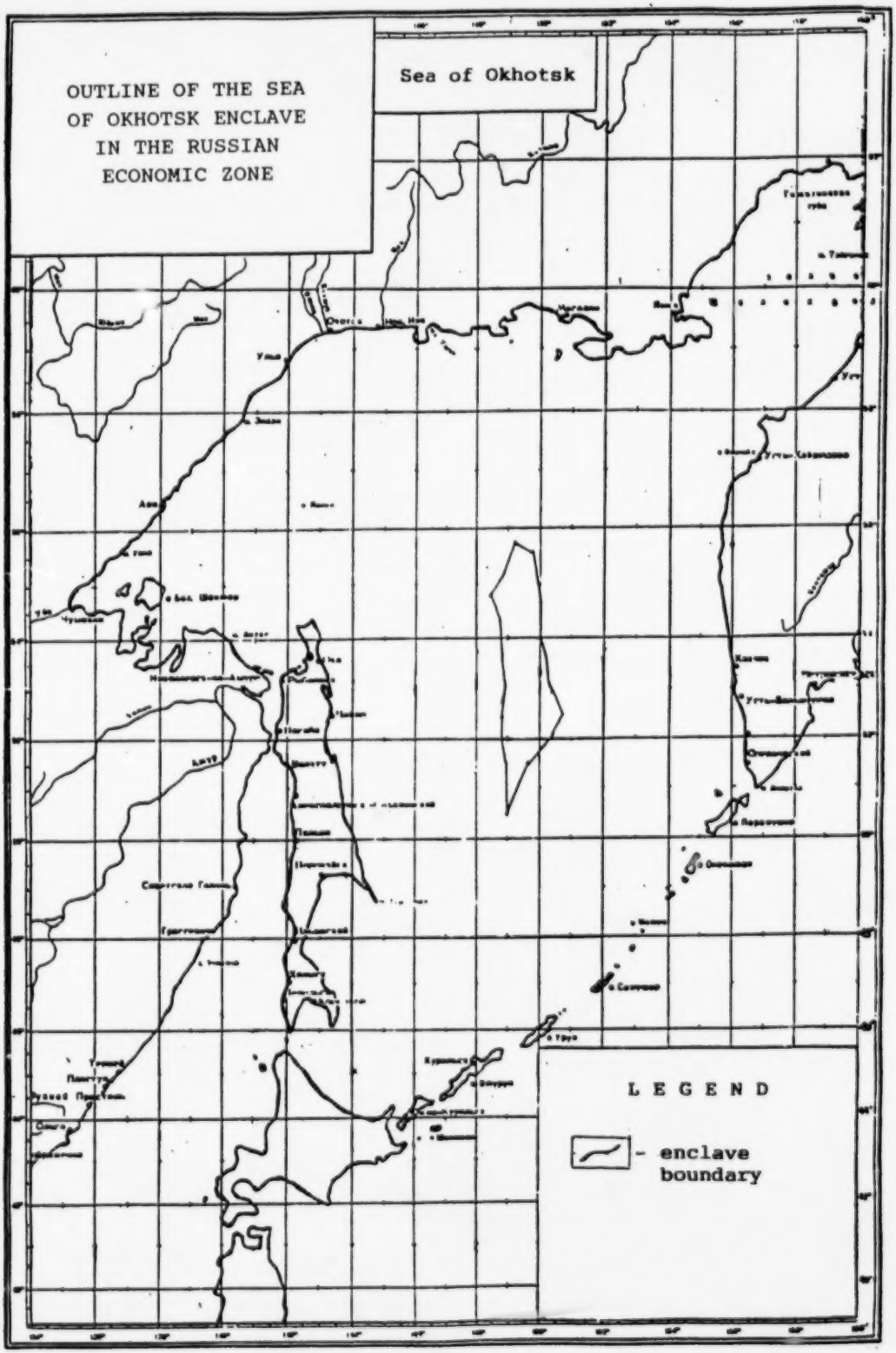
The continued unscientific fishing for Alaska pollack in the central part of the Sea, conducted without regard for essential stock conservation measures, will inevitably lead to the loss of the reproductive capacity of Alaska pollack in their primary spawning grounds in the Sea of Okhotsk, and to a long-term decline in fishing stocks, with severe social consequences for the indigenous peoples and fishermen of the Russian Far East.

Since the concentrations of Alaska pollack migrating to the central part of the Sea of Okhotsk form only part of the single stock of the Sea of Okhotsk, essential measures for the conservation of Alaska pollack and regulations for optimal utilization must be worked out by the coastal State on the basis of comprehensive scientific data.

In addition, unscientific fishing for Alaska pollack in the central part of the Sea, conducted without regard for essential stock conservation measures, could also be detrimental to stocks of other commercial species which spend certain periods of their life cycle in this area, namely, herring, halibut, salmon, seals, fur seals and sea lions. These species may get caught in the nets during trawling for Alaska pollack. For example, according to observations made by Russian scientists between December 1992 and February 1993, groups of as many as 40 and 50 fur seals are constantly encountered in the area of this fishing operation. They have been known to get caught in the trawls. The decline in recent years in stocks of mammals is also noteworthy and could be attributable to changes in the ecology of their high seas habitat where previously there had been no fishing.

Consequently, unscientific fishing for Alaska pollack in the central part of the Sea, conducted without regard for stock conservation measures, not only destroys the stocks of the most important commercial species for the Russian fishing industry, but also endangers the stocks of many species associated with Alaska pollack through their multi-species trophic links, and is therefore damaging to the entire ecosystem of the Sea of Okhotsk.

If unscientific fishing continues in the enclave, conducted without regard for the stock conservation measures elaborated by the coastal State, it could lead to the destruction of the entire ecosystem of the most productive sea in the world's oceans.


OUTLINE OF THE SEA
OF OKHOTSK ENCLAVE
IN THE RUSSIAN
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COMMENTS ON PRECAUTIONARY MANAGEMENT OF FISHERIES

(Submitted by the delegation of Sweden)

1. The precautionary approach to the protection of the environment has been formalized in principle 15 of the Rio Declaration of the United Nations Conference on Environment and Development. The text can also be used as a general guideline in fisheries. However, in fisheries, specific risk assessments need to be considered further.

2. Fisheries have to be managed in a cautious manner. There has been a misconception about such management and there is an impression that it would immediately mean the imposition of drastic measures. This is certainly not the case. A moratorium, for example, is necessary only in extreme cases.

3. Precautionary management is basically very different from the application of the precautionary principle in pollution issues, e.g., when toxic substances are added to the water. It was in order to deal with such non-natural additions that the precautionary principle was created and it has subsequently been used, for example, in Environmental Impact Assessments (EIAs).

4. In fisheries the meaning of precautionary management has to be defined, in order that it does not remain a tool which no one knows how to use. As you may know, there is already a precautionary approach in the form of a code of practice established by the European Inland Fisheries Advisory Commission and the International Council for the Exploration of the Sea. The code relates to the introduction of alien species into coastal waters and fresh waters (for reference see the Food and Agriculture Organization of the United Nations paper entitled "International Code of Conduct for Responsible Fishing").

5. There is obviously a need to identify appropriate methods to deal with uncertainties in the assessment and management of fish stocks, in order

(a) To maintain a healthy state of fish stocks;

(b) To maintain the biodiversity of the waters.

The practical implications of any application of the precautionary approach to fisheries have to be carefully examined.

6. What kind of precautionary management measures are presently used? One could say that they are a combination of biological and socio-economic measures, such as:

(a) Step wise development of fisheries;

(b) Financial or international brakes to avoid explosive development of fisheries;

(c) Total allowable catches (TACs) based on experience in similar cases;

(d) Multi-species management on a trial basis;

(e) Targets below maximum sustainable yield (MSY) or related concepts;

(f) "Safe biological build" concept;

(g) Minimum spawning mass;

(h) Total ecosystem management on a trial basis;

and a number of other concepts.

7. Conservation and management of the living resources of the high seas must be based on scientific work, as elaborated in article 119 of the United Nations Convention on the Law of the Sea. Science involves a continuous revision of knowledge and therefore approaches to the precautionary management of fisheries will have to be continuously revised. Frequent revisions, including adequate risk assessment, will add to the creditability of the approach.

8. In this context, all efforts have to be made to use adequate basic scientific data. Since important economic interests are involved, any unfortunate tendency that may be found to the withholding or distortion of data must be vigorously counteracted.

9. Sweden attaches great importance to the precautionary management of fisheries and will closely follow further developments in this field. We also think, along with others, that the application of the precautionary approach to fisheries will become more important as more fish stocks are exploited and as research funds for traditional stock assessment become limited. How the precautionary approach could best be implemented in fisheries needs to be further discussed by scientists in this field and a recommendation on this subject from this Conference would help in finding the means necessary for such an exercise.

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CONSERVATION AND MANAGEMENT OF ECOLOGICALLY RELATED SPECIES IN FISHERIES FOR STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

(Submitted by the delegations of Australia and New Zealand)

1. Australia and New Zealand recognize that most fisheries accidentally catch non-targeted fish and non-fish species in the normal course of fishing operations. Article 119 (1) (a) of the 1982 United Nations Convention on the Law of the Sea notes the "interdependence of stocks" and the obligation to qualify the allowable catch "by relevant environmental and economic factors". Fishing operations may cause appreciable mortality of non-target species which, for some species, may be unsustainable. In these cases fishing operations should exercise particular care in order to minimize the impact of fishing on non-target species.

2. Australia and New Zealand consider that fishing States have special responsibilities associated with the right to fish on the high seas. One responsibility, conferred upon all States, is the duty "to take, or to cooperate with other States in taking, such measures for their nationals as may be necessary for the conservation of the living resources of the high seas" called for in article 117 of the Convention. Clearly, this duty embraces target, associated and dependent species (both fish and non-fish).

3. Australia and New Zealand believe that the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks should reaffirm the obligation on States, specified in article 119 (1) (b) of the Convention, to consider "the effects on species associated with or dependent upon harvested species with a view to maintaining or restoring populations of such associated or dependent species above levels at which their reproduction may become seriously threatened" when determining the allowable catch on the high seas.

4. Australia and New Zealand wish to call attention to the fact that some high-seas fisheries may incur an incidental catch of non-fish species which may significantly reduce their breeding populations and increase the risk of irreversible damage to their populations. For example, there is an increasing body of evidence which indicates that some albatross species are currently at risk from long-line fishing. In many cases, however, little information is available from commercial fishing operations with which to assess the magnitude of catches of non-fish species, e.g., sea birds, marine mammals and sea turtles.

5. We believe that all members of the international community, particularly those catching straddling fish stocks or highly migratory fish stocks need to strengthen their cooperation in the conservation of living marine resources. We further believe that, in discharging this responsibility, attention needs to be focused on minimizing the impact of fishing on non-target species, in particular non-fish species.

6. Australia and New Zealand recommend that the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks agree that, in accordance with their capabilities, all members of the international community, particularly those with fishing interests in straddling fish stocks or highly migratory fish stocks, should:

(a) Implement or enhance data collection and reporting on catches of non-target species, including non-fish species, and on the impact of fishing on non-target species;

(b) Cooperate with scientists, whether from coastal States, distant-water fishing nations, subregional or regional organizations, in sharing data and conducting analyses of the impact on non-target species, including non-fish species, as a component of target fisheries assessments;

(c) Cooperate with other States, subregional, and regional organizations to develop or improve devices, including the modification of fishing practices and gear, to minimize catches of non-target species, including sea birds, marine mammals and sea turtles, with special emphasis on minimizing non-target catches where the reproduction of the species is seriously threatened;

(d) Require their flagged vessels to adopt all reasonable measures, including the use of equipment and techniques shown to be effective in minimizing catches of non-target species and to limit the catch of target species, if necessary, to maintain dependent species above levels at which their reproduction may become seriously threatened.

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SPECIAL REQUIREMENTS OF DEVELOPING COUNTRIES IN RELATION TO STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

(Submitted by the delegations of Australia, Cook Islands, Fiji, Kiribati, Marshall Islands, Micronesia (Federated States of), New Zealand, Papua New Guinea, Samoa, Solomon Islands, Tonga and Vanuatu)

1. In exercising their rights and fulfilling their obligations with respect to living marine resources, including straddling fish stocks and highly migratory fish stocks, developing countries have special requirements and need special assistance. This has been recognized in the United Nations Convention on the Law of the Sea and elsewhere. Article 119 (1) (a) of the Convention, for example, provides that in determining the allowable catch and establishing other conservation measures for the living resources in the high seas, States shall consider the "special requirements of developing States".

2. In working towards international agreements which respect the interests of all and protect the integrity of the global environmental and developmental system, the Rio Declaration on Environment and Development, adopted at the United Nations Conference on Environment and Development in 1992, proclaimed that the "special situation and needs of developing countries, particularly the least developed and those most environmentally vulnerable, shall be given special priority". 1/

3. This is further reflected in Agenda 21 adopted at the United Nations Conference on Environment and Development, in which States recognized that the ability of developing countries to fulfil agreed objectives for the conservation and sustainable use of living marine resources on the high seas was dependent upon their capabilities, including the financial, scientific and technological means at their disposal. States agreed that "adequate financial, scientific and technological cooperation should be provided to support action by developing countries to implement these objectives". 2/ In this respect, small island developing States and islands supporting small communities constituted a

"special case" for assistance to enable them to participate effectively in the conservation and sustainable utilization of adjacent high seas living marine resources. 3/

4. Developing countries face constraints in the quest for sustainable management and use of straddling fish stocks and highly migratory fish stocks. There can be no global or blanket solution to developmental problems, as particular regional and national characteristics place specific constraints on different countries. The assistance that has already been given to developing countries, as well as the most recent indications of further support, are seen as a valuable indication of the intention of the more fortunate to help those less well off. The intention of the Food and Agriculture Organization of the United Nations (FAO) to establish a special programme of assistance to developing countries, in line with the recommendation of the FAO Technical Consultation on High Seas Fishing, 4/ is also noted with particular interest.

5. It is important, however, bearing in mind the limited resources available, that the solutions developing countries have set for themselves should be in areas where assistance is concentrated. This would ensure that whatever assistance is rendered to developing countries would be entirely appropriate within the scope of national strategy planning, thereby enhancing the ability of developing countries to obtain the full social and economic benefits from the sustainable utilization of marine living resources.

6. Achieving sustainable development in fisheries is often beyond the means and capacities of developing countries, particularly the small island developing States. Therefore, States should cooperate at a global, regional or bilateral level and, as appropriate, with the support of international, regional or subregional organizations, to provide assistance to developing countries to enable them to develop their capabilities, including through the provision of financial, scientific and technological means as well as human resources development, in order that they can fulfil their obligations with respect to conservation and management, monitoring, control and surveillance, including enforcement measures for both straddling fish stocks and highly migratory fish stocks.

7. In this regard, it is recommended that this Conference request all members of the international community which have the capacity to do so to assist developing countries to develop their capacity to conserve, manage and develop national fisheries for straddling fish stocks and highly migratory fish stocks, including:

Types of assistance

(a) Human resources development;

(b) Financial assistance;

(c) Technical assistance;

(d) Technology transfer, including joint venture arrangements;

(e) Appropriate consultative and advisory services.

Areas of assistance

(a) Collection, reporting, verification and exchange of fisheries and fisheries-related data and information;

(b) Scientific research:

(i) Developing scientific and technological programmes;

(ii) Training, including capacity-building at the local level;

(c) Monitoring, control and surveillance:

(i) Training, including capacity-building at the local level;

(ii) Development and funding of national and regional observer programmes;

(iii) Vessel monitoring systems;

(iv) Access to technology and equipment;

(d) Access to dispute settlement mechanisms within regional and subregional arrangements;

(e) Participation in fisheries for straddling stocks and highly migratory stocks:

(i) Preferential access rights to high seas fisheries for developing countries to straddling stocks or highly migratory fish stocks in a region or subregion in which the particular developing country is located;

(ii) Development of infrastructure, including shore-based facilities, transshipment, joint ventures and port facilities in developing countries;

(iii) Promotion of access to markets and the reduction of, and eventual elimination of, tariffs and non-tariff barriers to trade, as proposed in the Declaration of Cancún 5/ and as noted by the FAO Technical Consultation on High Seas Fishing; 6/

(iv) Employment opportunities for developing country nationals in the fishing industry.

Means of facilitating assistance

(a) Programmes of assistance to developing countries, where appropriate, through existing regional and subregional organizations;

(b) A special programme for assistance to developing countries through FAO and other global, international or regional organizations.

Notes

1/ See Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992 (United Nations publication, Sales No. E.93.I.8 (vol. I)), annex I.

2/ Ibid., annex II, para. 17.48.

3/ Ibid., paras. 17.124 and 17.128.

4/ Report of the FAO Technical Consultation on High Seas Fishing, Rome, 7-15 September 1992 (A/CONF.164/INF/2), para. 96.

5/ "That tariff and non-tariff barriers affect international trade in fish products and rational utilisation of fisheries resources and that in this regard, there is a need to reach agreement on measures to promote international trade in fish products consistent with the negotiations taking place in the Uruguay Round of the GATT, general principles of the GATT and the principles of responsible fishing". See International Conference on Responsible Fishing, Cancún, 6-8 May 1992 (A/CONF.151/15), annex, para. V.

6/ Report of the FAO Technical Consultation on High Seas Fishing, Rome, 7-15 September 1992 (A/CONF.164/INF/2), para. 89.

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LETTER DATED 26 JULY 1993 FROM THE ALTERNATE CHAIRMAN OF THE DELEGATION OF THE RUSSIAN FEDERATION ADDRESSED TO THE CHAIRMAN OF THE CONFERENCE

The annex to this letter contains a document prepared by the delegation of the Russian Federation setting forth the position of the Russian Federation on the main provisions of the regime relating to straddling fish stocks.

The Russian delegation is of the view that, as a consequence of specific biological features and differences in the legal regulations, there are also differences in the regimes relating to straddling fish stocks and highly migratory fish stocks, which are reflected in the 1982 United Nations Convention on the Law of the Sea. At the same time, this does not mean that particular provisions of the two regimes may not coincide. Consequently, a number of the principles and provisions contained in the attached document are also applicable to highly migratory fish stocks.

I should be grateful if this letter and its annex could be circulated as a document in the "L" series.

(Signed) V. K. ZILANOV
Alternate Chairman of the
delegation of the Russian
Federation to the Conference

ANNEX

Main provisions of the regime relating to straddling fish stocks

(Submitted by the delegation of the Russian Federation)

The Russian Federation is of the view that one of the main tasks which the Conference is mandated to perform is the elaboration of recommendations aimed at solving existing problems related to the conservation and rational utilization of straddling fish stocks, as well as to means of improving cooperation between States in the area of fishing.

From the corresponding provisions of the 1982 United Nations Convention on the Law of the Sea and from fishing practices in different areas of the world's oceans it is clear that straddling stocks are taken to mean those fish stocks which reproduce and spend the greater part of their life cycle within the 200-mile exclusive economic zone and which may temporarily migrate beyond this zone into adjacent areas, as well as species whose natural habitat area includes both the 200-mile zone and the adjacent area. Accordingly, provisions concerning the conservation of such stocks in areas adjacent to exclusive economic zones are included in Part V of the Convention, dealing with the regime of the exclusive economic zone.

This interpretation of straddling stocks was also confirmed in decisions by the United Nations Conference on Environment and Development, held in Rio de Janeiro from 3 to 14 June 1992. Chapter 17 of resolution 1 of that Conference states, in particular, that action by States whose nationals and vessels fish on the high seas, as well as cooperation at the bilateral, subregional, regional and global levels, is essential particularly for highly migratory species and straddling stocks.

In addition, migratory fish stocks form part of a single coastal ecosystem and their conservation must be carried out along unified principles, both within the 200-mile exclusive economic zone and in adjacent areas, and their rational utilization is particularly important in providing food and employment for the population of coastal communities.

The Russian Federation also takes due account of the special legal regime applicable to enclosed or semi-enclosed seas, noting that fish stocks in the high-seas enclaves of a number of enclosed or semi-enclosed seas, in particular, the Sea of Okhotsk and the Bering Sea, have been significantly reduced in recent years as a result of wide-scale unscientific and unregulated fishing by vessels of the coastal States and are now endangered, creating an urgent need for immediate and effective measures for their protection and restoration.

I. Principles and main provisions of the regime

In view of the foregoing, the Russian Federation believes that consideration at the Conference of the issue of the ccnservation and rational utilization of straddling fish stocks should be based on the following principles:

(1) The principle of the unity and inseparability of the straddling fish stocks which form part of the ecosystem of various areas of the world's oceans;

(2) The principle of responsible fishing, which includes, in particular, the conduct of fishing only on the basis of accurate scientific data, measures to manage the ecosystem of the sea's living resources which take into account the biodiversity of stocks and their interdependence and the precautionary approach to conservation and management;

(3) The principle of the stable and long-term development of the fisheries of coastal communities, while keeping the ecosystems intact.

In the light of these principles, the regime for the conservation and rational utilization of straddling stocks would have to include the following basic provisions:

1. The conservation and rational utilization of straddling fish stocks shall be ensured by the coastal State (or States) and other interested States on the basis of bilateral agreements or through the corresponding subregional or regional organizations.

2. The total allowable catch for the straddling stocks of a given region and annual catch quotas for each species of straddling fish shall be established by the coastal and other interested States on the basis of bilateral agreements or by the corresponding regional organization at the request of the coastal States.

3. For the purpose of improving monitoring of the status of straddling stocks and adopting timely measures to prevent their depletion, the coastal States and States with an interest in fishing areas of the high seas adjacent to the economic zones of coastal States must conclude agreements on the establishment of a system for the monitoring of the straddling fish stocks of these seas. These agreements should, inter alia, make provision for:

(a) The conduct by all participants of joint scientific research aimed at providing an accurate assessment of the status of the straddling stocks and the extent of their exploitation by the coastal States, including by fishermen from coastal communities, as well as by other States, and also the participation in this research, where necessary, of competent international organizations and independent international experts;

(b) The duty of each participant to transmit to any other participant, at the latter's request, full data on the status of stocks, catches and fishing effort relating to straddling stocks over any given period.

4. States shall adopt legislative and administrative measures to ensure compliance with internationally agreed regulations relating to the conservation and rational utilization of straddling fish stocks. These measures shall include, in particular, the licensing of vessels flying their flags to fish such stocks on the high seas.

Surveillance and monitoring of compliance with the internationally agreed regulations shall be conducted both by national and international inspectors.

Penalties for the violation of these regulations shall be enforced by the flag State and should be commensurate with the violation concerned.

5. States shall endeavour to settle disputes relating to the conservation and rational utilization of straddling stocks by the peaceful means specified in Article 33, paragraph 1, of the Charter of the United Nations.

If they fail to settle their dispute within a reasonable period of time by the means referred to above, the dispute shall, at the request of one of the parties, be submitted for prompt consideration by the special arbitral tribunal established in accordance with the provisions of Annex VIII of the 1982 United Nations Convention on the Law of the Sea. The decision of such an arbitral tribunal shall be binding. Such arbitral procedures may also be established at the regional level.

II. Special characteristics of the high-seas enclaves of enclosed and semi-enclosed seas

In view of the fact that high-seas enclaves occupying small areas within enclosed and semi-enclosed seas in fact lie across the migration routes of certain fish species exclusive to the coastal States, the basic provisions of the regime for the conservation and rational utilization of such fish stocks of enclosed and semi-enclosed seas should, in the view of the Russian delegation, be based not only on articles 63 and 123, but also on articles 61 and 62 of the 1982 United Nations Convention on the Law of the Sea.

Accordingly, the coastal States of enclosed or semi-enclosed seas should independently determine the total allowable catch for all fish stocks in these seas and should establish annual catch quotas for each species.

Where the total allowable catch for the commercial stocks of enclosed or semi-enclosed seas is not fully utilized by the coastal States, other interested States shall be given access to the surplus of the total allowable catch of these stocks on the basis of bilateral agreements between the coastal States and the other interested States. Priority in the allocation of quotas shall be given to developing countries and States of a region whose fishermen have traditionally fished in this area.

These agreements shall include, inter alia, the following provisions:

(a) The duties of the parties to ensure that fishing activities in the high-seas enclave are not detrimental to the resources of the economic zones surrounding this enclave, or to the ecosystem and environment;

(b) Quotas and other restrictions on fishing activities;

(c) Means of identifying vessels and fishing gear;

(d) The standardization of vessel and fishing-gear markings;

(e) A system for the monitoring, inspection and surveillance of fishing vessels;

(f) Measures to enforce compliance with agreements, including measures established by international law in respect of illegally flagged vessels, vessels which conceal their nationality or vessels reflagging at sea.

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SOME CONSIDERATIONS REGARDING THE QUESTION OF SECURING COMPLIANCE WITH CONSERVATION MEASURES FOR STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

(Submitted by the delegation of the Russian Federation)

1. Measures to conserve straddling fish stocks and highly migratory fish stocks and arrangements for implementing those measures have their own unique aspects and should be worked out separately.

2. Enforcement of measures for effective conservation and management of straddling fish stocks is feasible only if those measures are applied by the coastal State itself over the stocks' entire habitat area.

3. Conservation and management of highly migratory fish species will be effective only if other interested States, in addition to coastal States, participate in appropriate measures.

4. Licences to fish straddling fish stocks and highly migratory fish stocks should be issued only by the flag State.

5. It seems unlikely that the vessel marking standards worked out within the framework of FAO would be applicable to all vessels conducting fishing operations or to all regions. Practical matters such as these should be resolved on a bilateral basis (between the coastal States and the States conducting the fishing operation) or within the framework of the appropriate international fishing organization.

6. Inspections and surveillance are effective measures to conserve straddling fish stocks and highly migratory fish stocks.

Surveillance of straddling stocks occurring outside the exclusive economic zone should be carried out on the basis of agreements between the coastal State and other interested States, or within the framework of the competent international organization.

The status of observers and their rights, duties and responsibilities should be clearly defined. The flag State or international organization which sends an observer on board a vessel shall be responsible for all expenses connected with the maintenance of the observer.

Inspections of the above fisheries are carried out by the flag State or on a bilateral or multilateral basis or by agreement between the member States of an international fishing organization.

7. Liability for violations of standards and regulations for the conservation and management of straddling fish stocks and highly migratory fish species should rest with the State of the flag vessel. The liable State should pay compensation for losses suffered by the coastal State.

8. Material and other liability for unjustified seizure of a vessel beyond the outer limits of the exclusive economic zone should be borne by the State effecting the seizure.

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LETTER DATED 27 JULY 1993 FROM THE ALTERNATE CHAIRMAN OF THE DELEGATION OF THE RUSSIAN FEDERATION ADDRESSED TO THE CHAIRMAN OF THE CONFERENCE

The attached document, prepared by the delegation of the Russian Federation to the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, contains proposals on the application of minimum standards for the conservation of straddling stocks in high-seas areas immediately adjacent to exclusive economic zones.

I should be grateful if you would have this document circulated as a document of the Conference in the "L" series.

(Signed) V. K. ZILANOV
Alternate Chairman of the delegation
of the Russian Federation to the Conference

ANNEX

On the application of minimum standards for the conservation of straddling stocks in high-seas areas adjacent to exclusive economic zones

(Submitted by the delegation of the Russian Federation)

According to the Convention, (article 63, para. 2), a coastal State and States fishing on the high seas for the same stock or stocks of associated species which occur both within the exclusive economic zone and in an area beyond and adjacent to the zone, shall seek, either directly or through appropriate subregional or regional organizations, to agree upon the measures necessary for the conservation of these stocks in the adjacent area.

The minimum international standards for the conservation of straddling fish stocks in high-seas areas adjacent to the exclusive economic zone of a coastal State should be fully consistent with the measures essential for the conservation of the fish stocks of the exclusive economic zone which have been elaborated and implemented by the coastal State in question, since, as a rule, the stocks outside the zone represent only a small part of the fish stock which reproduces and spends the greater part of its life cycle in the exclusive economic zone of the coastal State, where the fishing for such stocks is traditionally established.

The following principles may be adduced in support of such an approach:

1. The straddling fish stocks which migrate from an exclusive economic zone into a high-seas area immediately adjacent to the exclusive economic zone of a coastal State generally only form a small part of a single stock which reproduces and spends the greater part of its life cycle within the coastal marine ecosystem of the exclusive economic zone of one or several coastal States. Consequently, the coastal State (States) has both a right and a duty under the Convention (articles 61 and 62) to conserve this main part of the fish stock, a small part of which periodically leaves the exclusive economic zone on seasonal or ontogenetic migrations.

2. As a rule, this main part of the fish stock, located in the exclusive economic zone of a coastal State, has historically been fished over a long period and the indigenous population and coastal fishing communities owe their economic and social welfare to sound management of that stock.

3. As a rule, this main part of the fish stock in the exclusive economic zone of the coastal State has been scientifically studied over a long period by the coastal State or States, its biological status has been assessed and an extensive body of such observations has been gathered and correlated with observations of the environment, which makes it possible not only to establish yearly total allowable catch levels, but also to adopt tried and tested measures for the regulation and control of fishing with a view to conserving this main part of the stock from over-exploitation.

4. As a rule, the coastal State or States in the exclusive economic zone are harvesting and, consequently, studying not only the species whose population constitutes this main part of the stock, but also the fish stocks of other associated species. As a result, the coastal State or States have at their disposal information on the interdependence of stocks and can use an ecosystemic approach in assessing the stocks and establishing admissible levels for their exploitation.

5. As a rule, the coastal State studies, in the waters of the exclusive economic zone, not only the fish stocks themselves, but also their habitat and a considerable body of observations has been gathered on an entire series of climatic and oceanological parameters. This enables the coastal State to anticipate major changes in the size of fish stocks and, accordingly, to prevent them from being over-exploited, as can easily happen in cases where fishing effort is maintained at the same level during periods when the influence of adverse natural factors causes a sharp decline in fish stocks.

6. As a rule, the coastal State or States bear the main financial burden of monitoring the status of straddling stocks, developing and implementing measures for their conservation and carrying out surveillance of fishing activities.

7. As a rule, the practice of fishing for straddling fish stocks in areas beyond and adjacent to an exclusive economic zone has emerged over the last five to seven years with a lack or, more often, a complete absence of scientific foundation and without any effort to elaborate and comply with conservation measures, and this in turn has already caused a decline in stocks and the breakdown of the system of measures for the regulation of fishing.

As a result, when deciding on the advisability of fishing on the high seas for straddling fish stocks consisting of species which reproduce and spend the greater part of their life cycle in the exclusive economic zone of the coastal State and only leave the zone for short periods, it is absolutely essential that the minimum conservation standards adopted should be standards which have been developed and tried and tested by the coastal State.

The list of such standards for straddling fish stocks, the setting of which should be an essential precondition for any fishing operation in an area adjacent to an exclusive economic zone, should include:

- The identification of fishing areas and seasons which are safe for the fish populations;

- Setting the share of allowable catches for each population of the various species which may be harvested in the high-seas area adjacent to the exclusive economic zone;

- Setting the fishing limits (size, age) of the harvested species;

- Establishing the permitted fishing gear;

- Calculating the fishing effort necessary for harvesting the share of the allowable catch;

- Implementing compulsory surveillance of fishing activities.

The coastal States shall, every year, set basic minimum standards for the conservation of straddling fish stocks on the basis of the best scientific evidence available, and also taking due account of the recommendations of the appropriate international organizations.

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UNITED NATIONS CONFERENCE ON
STRADDLING FISH STOCKS AND
HIGHLY MIGRATORY FISH STOCKS

COMMENTS ON COMPATIBILITY AND COHERENCE BETWEEN NATIONAL AND INTERNATIONAL CONSERVATION MEASURES FOR THE SAME STOCK

(Submitted by the delegation of Japan)

1. The issue of compatibility and coherence between national and international conservation measures for the same stock is sensitive and very important. Without addressing this issue properly, we may not make any progress in the appropriate conservation and management of straddling fish stocks and highly migratory fish stocks.

2. All the delegations to the present Conference agree on the necessity of compatibility and coherence between national and international conservation measures for the stocks which reside in and/or migrate within the waters under national jurisdiction and on the high seas. But the question of how we can secure compatibility and coherence remains.

3. "Due regard" to the needs, interests and practices of both distant-water fishing States and coastal States is the point of departure for our discussion on how to establish the fundamental principles for the achievement of compatibility and coherence. The Japanese delegation would like to refrain from making legal arguments, but it is our belief that the sovereign rights of coastal States must not impinge on the freedom of high seas fishing States. Similarly, the freedom of fishing on the high seas must not impinge upon the sovereign rights of coastal States within their national jurisdictions. These two concepts should coexist and be complementary to each other. Each party must cooperate with "due regard" to the other.

4. A mechanism of cooperation to ensure "due regard" between coastal States and high seas fishing States should be established through regional or subregional organizations open to all parties with participation on an equal footing. What then should these organizations set out to do? First the organizations should assess the conditions of the fish stocks with which they are concerned. With regard to stock assessment, regional organizations should base their assessments on the full range of migration of the stocks, assess

their biomass and set an allowable biological catch (ABC), as appropriate. As for straddling stocks, many coastal States have already conducted scientific research. Therefore, the regional organizations or, at least, the scientific committees of the organizations, should make their assessment with "due regard" to what action coastal States have taken in the field of conservation and management. In many cases in practice, the extent and quality of scientific assessments by coastal States deserves our respect. On the other hand, for the sake of fair and high quality assessment, regional organizations must be empowered to recommend whatever they deem to be appropriate, even if such recommendations differ from those chosen by the coastal States. Since stock assessments covering the whole range of the stocks are essential to their conservation and management, such activities by the regional organizations are beneficial, not only for high seas fishing States, but also for the coastal States joining the organizations. Article 61 (5) of the United Nations Convention on the Law of the Sea stipulates the need for information exchange by all States, including coastal States, through appropriate regional organizations.

5. When we consider conservation and management measures for the stocks, the situation becomes a little more difficult and complicated. When they formulate measures, regional organizations should take into consideration all relevant factors, such as regional characteristics, stock conditions, fishing practices and the social/economic needs of fishermen. Is it always necessary to take exactly the same measures both in the waters under national jurisdiction and on the high seas? The Japanese delegation thinks it is not. Measures could vary according to the different factors which pertain to each region. It is not therefore appropriate to set a global standard for this particular matter. We should let competent regional organizations set their own standards.

6. Another issue which regional organizations should address is the establishment of a mechanism for the development of a minimum standard of appropriate conservation and management measures applicable to waters both inside and outside of national jurisdiction. In reality, however, it is difficult to set such a standard because the economic and social factors of fisheries vary between areas. Therefore, again, we would like to stress the need for "due regard" to the realities of each State. Compatibility and coherence with "due regard" to the needs and interests of each State should be maintained as a standard. A sense of burden-sharing on an equitable basis would be essential in this undertaking.

7. In particular, as highly migratory fish stocks may have a range of migration through waters under the national jurisdiction of more than 10 countries and the adjacent high seas, it is not practical or wise to set separate conservation and management measures for the territorial and extraterritorial waters or separately for different zones under national jurisdiction. Therefore, competent regional organizations should be in a position to formulate uniform measures to be taken throughout the migratory range. Existing competent regional organizations, such as the International Commission for the Conservation of Atlantic Tunas (ICCAT) and the Inter-American Tropical Tuna Commission (IATTC), actually formulate coherent measures throughout the migratory ranges for the species they manage.

8. How can we allocate a total allowable catch between coastal States and high seas fishing States? This is a fundamental and essential question of who benefits. The Japanese delegation does not wish to deal with this issue in detail, but again, the "due regard" principle is essential. For example, with respect to highly migratory species, how can we expect to implement cooperative relationships between coastal States and high seas fishing States under circumstances whereby the amount of fish to be taken in the exclusive economic zones have been determined unilaterally by coastal States and the fish available to the high seas fisheries have been automatically reduced? Conversely, can we expect cooperation from coastal States when such coastal States can derive no benefits from fish migrating into their zones? Mutual cooperation with "due regard" for each State should be a starting point.

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COMMENTS ON A GUIDE TO THE ISSUES BEFORE THE CONFERENCE PREPARED BY THE CHAIRMAN (A/CONF.164/10)

(Submitted by the Permanent Representative of Solomon Islands to the United Nations on behalf of the member countries of the South Pacific Forum Fisheries Agency)

1. In relation to sections II and III of document A/CONF.164/10, the comments of the member countries of the South Pacific Forum Fisheries Agency (SPFFA) relate in particular to the mechanism for cooperation between States in respect of the conservation and management of straddling fish stocks and highly migratory fish stocks on the high seas and the need to take a flexible approach to arrangements for management.

2. Member countries of the Agency can agree with the proposition that, in relation to the conservation and management of straddling stocks and highly migratory species on the high seas, States should cooperate. It needs to be clearly understood that the purpose of such cooperation is to agree on conservation and management measures with respect to particular fish stocks on the high seas. However, the member countries of the Agency think it also needs to be recognized that cooperation through existing regional and international fisheries commissions has not proved effective in the management and conservation of high seas resources, particularly straddling stocks and highly migratory species, nor in resolving the major issues associated with high seas fisheries.

3. Some of the reasons for the lack of success of these bodies include:

(a) Inadequate information bases for decision-making;

(b) Failure of parties to fulfil their commitments for data provision, research, etc.;

(c) The different capabilities of the parties to collect and analyse data leading to the domination of scientific discussion by one or two parties;

(d) The inability of members to agree on essential conservation measures recommended by scientists;

(e) The absence of key fishering States from the regime;

(f) The divergent interests of coastal States and distant-water fishing nations;

(g) The dominance of developed countries over developing countries;

(h) Poor enforcement of agreed management measures;

(i) The failure to adapt the institutional frameworks to the geographic and economic circumstances of each region;

(j) The lack of commitment by parties to precautionary management approaches.

4. Any assessment of the shortcomings of existing fisheries management bodies should set out guidelines for improving the performance of these bodies. Fisheries management bodies are in place for several of the fisheries which are now in trouble. We need to look carefully and honestly at the reasons underlying the failure of existing institutions to identify the changes necessary successfully to conserve and manage high seas resources. Fisheries management bodies must be accountable for the state of the resources over which they have competence. States must be prepared to make the changes necessary to the mandate and decision-making processes to achieve improvements in the way those resources are managed.

5. Calls for new institutions ring hollow unless the problems underlying the failure of existing bodies are addressed. It is clear that changes must be made to the decision-making processes, mandate and structures if improvements are to be achieved in conserving and managing high seas fisheries. We need to think flexibly about the form, decision-making processes, roles of members and the form of participation in such bodies, taking into account specific regional characteristics.

6. The members of SPFFA would therefore agree that participation in a regional or subregional fisheries management organization is only one method of fulfilling the obligation to cooperate in fisheries conservation and management. Existing regional mechanisms, policies and development should be regarded as a starting-point for addressing high seas fisheries management issues. However, there is a need for greater cooperation in developing and implementing effective management regimes on the high seas. Such regimes must be based on proper scientific, economic and social considerations and contain effective monitoring and enforcement measures.

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SCIENTIFIC RESEARCH COOPERATION AND CONSERVATION AND MANAGEMENT OBJECTIVES FOR STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS: CONSIDERATIONS FOR DEVELOPING COUNTRIES

(Proposal submitted by: Australia, Cook Islands, Fiji, Kiribati, Marshall Islands, Micronesia (Federated States of), New Zealand, Papua New Guinea, Samoa, Solomon Islands, Tonga and Vanuatu)

1. The sponsors endorse the principles specifying the basis for conducting marine research set out in the United Nations Convention on the Law of the Sea. Regionally, our fisheries data collection and research activities are coordinated by the South Pacific Commission Tuna and Billfish Assessment Programme and collaborative research is also implemented through other regional consultative arrangements. This research includes input by scientists from distant-water fishing nations and integrates studies by regional organizations and by coastal States. We have been especially active in collaborative scientific research because we recognize the essential role research plays in the conservation and management of living marine resources.

2. The sponsors consider that to give full effect to the requirements for States to conserve and manage straddling and highly migratory fish stocks, States must cooperate in carrying out research throughout the range of those stocks. This scale of research is, we consider, beyond the capacity of any State acting on its own and therefore can best be realized through collaborative research coordinated by regional and subregional organizations or arrangements involving all interested parties. The sponsors strongly support this approach to research on these stocks because in their experience these mechanisms have provided for effective and efficient research cooperation.

3. Effective conservation and management of straddling and highly migratory fish stocks requires scientific research in the following areas:

(a) Stock assessment: surveys and catch/effort data analysis to estimate abundance indices, stock identification studies, estimates of productivity, research to develop new assessment methodologies;

(b) Fisheries interactions: tagging studies, catch/effort analyses, research into new analytical techniques;

(c) Biology and ecology: studies of age, growth, mortality, reproduction, recruitment, distribution, interrelationships with dependent and associated species, and oceanographic and climatic effects on stocks;

(d) Impacts on associated and dependent species (including non-fish species): estimates of incidental mortality of species caught in various target fisheries, population studies of non-target species, research into methods of minimizing impacts of fishing on non-target species.

4. States should be mindful that the resources available and research capacity of developing countries may not be equivalent to that of distant-water fishing nations. Therefore, in giving effect to scientific research cooperation, States should be mindful of the likely need for assistance to developing countries to build national and regional research capacity, including strengthening of national research capabilities. States should promote the full participation of developing countries in research planning and implementation in order to ensure that conservation and management measures developed for straddling and highly migratory fish stocks are effective and gain the widest acceptance possible. Adequate consideration should therefore be given to requirements for technical and financial assistance and training.

5. The sponsors consider that scientific research in support of conservation and management of straddling fish stocks and of highly migratory fish stocks should encompass the entire range of the stock(s) and be based on cooperative programmes coordinated by regional or subregional fisheries organizations or arrangements. The sponsors therefore believe that the Conference should:

(a) Elaborate the obligations for scientific cooperation on the high seas;

(b) Seek the commitment of the international community, especially those States with an interest in a region, fully to support cooperative scientific research coordinated through regional or subregional organizations or arrangements;

(c) Seek the commitment of the international community, especially those States fishing on the high seas in a region, to support the implementation of cooperative scientific research in the areas of stock assessment, fisheries interactions, biology and ecology of target species, and impacts on associated and dependent species (including non-fish species) as outlined above.

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NATIONAL AND REGIONAL REGISTERS OF FISHING VESSELS, LICENCES, AUTHORIZATIONS OR PERMITS FOR VESSELS FISHING ON THE HIGH SEAS

(Proposal submitted by: Australia, Cook Islands, Fiji, Kiribati, Marshall Islands, Micronesia (Federated States of), New Zealand, Papua New Guinea, Samoa, Solomon Islands, Tonga and Vanuatu)

1. Australia, the Cook Islands, Fiji, Kiribati, the Marshall Islands, Micronesia (Federated States of), New Zealand, Papua New Guinea, Samoa, Solomon Islands, Tonga and Vanuatu believe that national and regional registers of fishing vessels, and systems of licences, authorizations or permits for vessels fishing on the high seas are essential elements of any global, regional or subregional scheme for ensuring compliance with, and enforcing agreed conservation and management measures for, straddling fish stocks and highly migratory fish stocks on the high seas.

2. National registers, maintained by flag States and containing full information on fishing vessels, are essential if flag States are to fully exercise their responsibility with regard to the enforcement of conservation and management measures on the high seas. Regional registers, maintained by regional fisheries organizations or in accordance with regionally agreed procedures, and containing relevant details of all vessels fishing in a region or subregion, including support vessels, are an essential management tool for ensuring compliance within that region or subregion. Where possible, it is desirable that national and regional registers be integrated. National authorities should cooperate fully with regional fisheries organizations or other arrangements to ensure that the information contained on regional registers is complete and accurate.

3. Licences, authorizations or permits, issued by flag States in respect of vessels fishing on the high seas, are important for both compliance and enforcement. Licensing systems help to ensure that flag States remain fully aware of the activities of vessels flying their flags on the high seas and

enable flag States to attach conditions to the use of vessels flying their flags for the purposes of fishing on the high seas. In addition, licensing systems which make provision for the imposition of sanctions against vessels which fail to comply with the terms and conditions of the licence are a powerful mechanism through which the flag State can exercise its responsibility.

4. This document contains proposals by Australia, Cook Islands, Fiji, Kiribati, the Marshall Islands, Micronesia (Federated States of), New Zealand, Papua New Guinea, Samoa, Solomon Islands, Tonga and Vanuatu for the establishment and use of national and regional registers of vessels fishing on the high seas within regions or subregions. In addition, basic minimum requirements for the information contained in such documents are suggested for consideration by the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks.

I. NATIONAL AND REGIONAL REGISTERS OF FISHING VESSELS

National registers

5. Flag States should establish national registers of vessels authorized to fish on the high seas and should enforce compliance with such registers through legislation or administrative arrangements having the force of law.

6. Registers of fishing vessels should, as a minimum, contain the following types of information:

(a) Vessel identification and type;

(b) Name of vessel and port of registry;

(c) International Radio Call Sign;

(d) Basic vessel specifications, including engine power, length, tonnage, hold capacity, storage methods;

(e) Navigation and position fixing aids;

(f) Communications equipment, including satellite transmitter equipment;

(g) Name and address of owner(s) and charterer;

(h) Base port, flag State;

(i) Construction details, vessel age, hull material, etc.;

(j) Type of fishing gear, quantity and specification, including aids to fishing such as helicopters, current meters, fish-finders, by-catch mitigating devices, etc.

7. Where appropriate to the type of fishing operations normally carried out in the region concerned, registers should also contain details of ancillary craft, such as helicopters, catcher boats, chaser boats, bait boats, etc.

8. Registers should be maintained up to date and, to this end, flag States must require operators promptly to notify the relevant national or regional authority of any changes in the information contained in the register.

Regional registers

9. States should cooperate to establish international, regional or subregional registers of vessels fishing or authorized to fish on the high seas. In respect of such registers, States should take cooperative action to prevent vessels which contravene regional or subregional conservation and management measures from fishing in the region or subregion until such time as corrective action is taken. A particularly useful model for this purpose is the regional register of foreign fishing vessels maintained on behalf of its member countries by the South Pacific Forum Fisheries Agency.

10. The South Pacific Forum Fisheries Agency (SPFFA) regional register of foreign fishing vessels became operational in 1983. The register is a database containing comprehensive details of foreign fishing vessels that may wish to apply for licences to fish in the region. At present there are approximately 700 tuna longliners, purse seiners, pole-and-liners and other support craft listed on the register. The regional register database holds information on vessel owners, operators and masters and other essential information regarding the vessel, and is capable of providing a history of any changes in that information occurring over the years. The general intention behind the register is to create a compliance mechanism which shifts some of the responsibility for compliance to the flag State. The principle of flag State responsibility received acceptance at the Food and Agriculture Organization of the United Nations World Conference on Fisheries Management and Development and is widely recognized as one of the most effective ways of ensuring compliance with coastal State controls.

11. The fundamental requirement of the register, which is administered by the Director of the Agency, is that before any foreign fishing vessel may be licensed to fish in the region, it must be in good standing on the regional register. Vessels must apply annually for registration and must provide information relating to the vessel's physical characteristics as well as details of the base port, fishing master, vessel master and owner. A recent photograph of the vessel, with the vessel name and international radio call sign clearly displayed, must accompany the application.

12. Good standing is a status which is automatically conferred on a vessel upon registration. The status may be withdrawn in certain circumstances, for instance, if a vessel has committed a serious fisheries offence. Once good standing is withdrawn, the vessel is effectively prevented from fishing in the region. A procedure for the suspension of good standing has also been introduced.

II. LICENCES, AUTHORIZATIONS AND PERMITS

13. In order to complement systems of regional registration, it is important that the necessary machinery exists to provide legal and administrative linkages with the flag State. This can be achieved by means of fishing licences, authorizations, permits and other means issued and managed by the flag State in accordance with national internationally and regionally agreed procedures. Such procedures may include requirements that:

(a) Vessels fishing on the high seas must carry the authorization licence or permit on board;

(b) Information contained in an authorization, licence or permit is sufficient to enable States to fulfil international, regional or subregional obligations.

14. Flag States should be encouraged to enact national legislation to prohibit fishing on the high seas and in the exclusive economic zones or fisheries zones of other States by vessels that are not duly licensed or authorized to fish.

Types of information to be provided in relation to licences, authorizations and permits

15. In establishing legal and administrative procedures for the issue of licences, authorizations or permits, flag States should require vessel owners and operators to provide all such information as may reasonably be required to enable the flag State to carry out its responsibilities in respect of that vessel, including its responsibilities, if any, towards a regional fisheries organization or arrangement. As a minimum, the following information should be collected:

(a) Vessel identification and type;

(b) Name of vessel and port of registry;

(c) International Radio Call Sign;

(d) Authorized area of operation;

(e) Basic vessel specifications, including engine power, length, moulded depth, beam, gross registered tonnage, hold capacity, freezing capacity, storage methods;

(f) Navigation and position fixing aids;

(g) Communications equipment, including satellite transmitter equipment;

(h) Name and address of owner(s) and charterer;

(i) Name and address of master;

(j) Size and composition of crew;

(k) Base port, flag State;

(l) Construction details, where and when built, hull material, etc.;

(m) Type of fishing gear, quantity and specification, including aids to fishing such as helicopters, current meters, fish-finders, by-catch mitigating devices;

(n) Details of previous licences and authorizations held.

16. It is proposed that the establishment of national and regional registers similar to those described above, complemented by systems of licences, authorizations and permits of the flag State, be considered by the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks as an important element in the management of such fish stocks.

Annex

MINIMUM INFORMATION REQUIRED IN RESPECT OF FISHING VESSELS

Data Requirements	National/ Regional Registers	Licence, Authorization, Permit
Vessel identification and type	Vessel identification and type	Vessel identification and type
	Name of vessel and port of registry	Name of vessel and port of registry
	International Radio Call Sign	International Radio Call Sign
		Authorized area of operation
Basic vessel specifications, including engine power, length, tonnage, hold capacity, storage methods.	Basic vessel specifications, including engine power, length, tonnage, hold capacity, storage methods .	Basic vessel specifications, including engine power, length, moulded depth, beam, gross registered tonnage, hold capacity, freezing capacity, storage methods .
Navigation and position fixing aids	Navigation and position fixing aids	Navigation and position fixing aids
Communications equipment, including satellite transmitter equipment	Communications equipment, including satellite transmitter equipment	Communications equipment, including satellite transmitter equipment
	Name and address of owner(s) and charterer	Name and address of owner(s) and charterer
		Name and address of master
Size and composition of crew		Size and composition of crew
	Base port, flag state	Base port, flag state
	Construction details, vessel age, hull material, etc.	Construction details, where and when built, hull material, etc.
Type of fishing gear, quantity and specification, including aids to fishing such as helicopters, current meters, fish-finders, by-catch mitigating devices.	Type of fishing gear, quantity and specification, including aids to fishing such as helicopters, current meters, fish-finders, by-catch mitigating devices.	Type of fishing gear, quantity and specification, including aids to fishing such as helicopters, current meters, fish-finders, by-catch mitigating devices .
		Details of previous licences and authorization held